

COUNCIL MEETING

JUNE 17, 2015

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, June 17, 2015 at 9:03 a.m., after which the following members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

SCOTT K. SATO, Deputy County Clerk: Seven (7) present.

Council Chair Rapozo: Next item, please.

APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda as circulated, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion?

The motion for approval of the agenda as circulated was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

MINUTES of the following meetings of the Council:

February 6, 2015 Facilitated Shared Priorities Workshop
May 6, 2015 Council Meeting
May 13, 2015 Public Hearing re: Bill No. 2582, Bill No. 2583, and Resolution No. 2015-26

Councilmember Kagawa moved to approve the Minutes as circulated, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Yes. I want to thank the Council for the deferral on the February 6th Facilitated Shared Priorities Workshop minutes. I have read them over, and I want to thank Allison on our staff, for doing such a good job. As you recall, we changed rooms and we had some trouble with the recording at that Workshop. I expected a lot of gaps in the meeting, but it was complete and very helpful. I am going to be voting to approve the minutes. But for the record, I want to say that there are attachments to the minutes, one of which is the Facilitator's

notes. I want to say that for the record, I do not agree that Section 6 of the Facilitator's notes are an accurate representation of what we decided, because it does not make clear that affordable housing, parks, traffic, land transportation, and energy were among the top eight (8) priorities of the Council. I do not think there is any Councilmember around this table that would say that affordable housing, parks, traffic, land transportation, and energy are not among the top eight (8) priorities of this Council. For the record, I would just like to state that. Thank you, Chair.

Council Chair Rapozo: Thank you very much. Any further discussion?

The motion to approve the Minutes as circulated was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

CONSENT CALENDAR:

C 2015-170 Communication (05/25/2015) from the County Engineer, transmitting for Council consideration, a Resolution Establishing a Maximum Speed Limit of Thirty Miles Per Hour (30 MPH) and Forty Miles Per Hour (40 MPH) Along Ala Kalanikaumaka, Kōloa District, County of Kaua'i, State of Hawai'i.

C 2015-171 Communication (05/27/2015) from the Director of Finance, transmitting for Council information, the Period 10 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of April 30, 2015, pursuant to Section 21 of Ordinance No. B-2014-781, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2014-2015.

C 2015-172 Communication (05/28/2015) from the Director of Finance, transmitting for Council information, the following reports:

- (1) County of Kaua'i Bond Summary of General Long-Term Debt Amount Outstanding as of July 1, 2014;
- (2) County of Kaua'i Bond Supplemental Summary of General Long-Term Debt Amount Outstanding as of June 30, 2015; and Excluded County of Kaua'i Bond Supplemental Summary of Long-Term Debt Amount Outstanding as of June 30, 2015: CFD No. 2008-1 (Kukui'ula Development Project) Special Tax Bonds, Series 2012, sold April 25, 2012.

C 2015-173 Communication (06/04/2015) from Councilmember Kaneshiro, providing written disclosure of a possible conflict of interest and recusal, with regard to C 2015-166, which is the Right-of-Entry Agreement and Memorandum of Understanding between the County of Kaua'i and Grove Farm Company, Inc., as he is employed with Grove Farm Company, Inc.

C 2015-174 Communication (06/09/2015) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointees to the various Boards and Commissions for the County of Kauaʻi:

1. Charter Review Commission

- Merrilee M. Ako – Term ending 12/31/2017

2. Fire Commission

- Michael T. Martinez – Term ending 12/31/2016

C 2015-175 Communication (06/09/2015) from Council Vice Chair, transmitting for Council consideration, a proposal to amend the Kauaʻi County Code 1987, as amended, by repealing Article 25 of Chapter 22, entitled “Barking Dogs.”

Mr. Sato: We do have one (1) person signed up to speak on C 2015-170.

Council Chair Rapozo: Can I entertain a motion to receive items C 2015-171, C 2015-172, C 2015-173, C 2015-174, and C 2015-175?

Councilmember Chock moved to receive C 2015-171, C 2015-172, C 2015-173, C 2015-174, and C 2015-175 for the record, seconded by Councilmember Kualiʻi.

Council Chair Rapozo: Any discussion?

The motion to receive C 2015-171, C 2015-172, C 2015-173, C 2015-174, and C 2015-175 for the record was then put, and unanimously carried.

Council Chair Rapozo: Mr. Clerk, can we have item C 2015-170 please?

Councilmember Kagawa moved to remove C 2015-170 off of the Consent Calendar, seconded by Councilmember Kualiʻi, and unanimously carried.

COMMUNICATIONS:

C 2015-170 Communication (05/25/2015) from the County Engineer, transmitting for Council consideration, a Resolution Establishing a Maximum Speed Limit of Thirty Miles Per Hour (30 MPH) and Forty Miles Per Hour (40 MPH) Along Ala Kalanikaumaka, Kōloa District, County of Kauaʻi, State of Hawaiʻi: Councilmember Kagawa moved to receive C 2015-170 for the record, seconded by Councilmember Kualiʻi.

Council Chair Rapozo: Thank you very much. We have a registered speaker?

Mr. Sato: Yes. Our first registered speaker is Meredith Fisher.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Ms. Fisher, could you come up please? Good morning. If you could just state your name for our captioner.

MEREDITH FISHER: Meredith Titus Fisher.

Council Chair Rapozo: Okay.

Ms. Fisher: I would like to have the Ala Kalanikaumaka speed limit raised. It is the bypass that is in between the old Kōloa Road and the roundabout in Po'ipū. It is twenty-five miles per hour (25 MPH) right now, and it is really hard to drive that slowly on that road. It is a very wide open road. It is not residential. It is definitely more country. There are no roadways that come out of there except for the Kukui'ula driveway. It has a crosswalk there that is very prominent and I think it even has a flashing light when people want to cross it. A lot of people like to walk there and there is a great sidewalk, but it is spaced away from the road. You can see everything driving up and down it, and it just does not seem reasonable to have it 25 MPH. I would like to have it raised, if possible. I actually use that road ten (10) times a week, minimum, and I find that when I am following cars too, they are not always following the speed limit either.

(Councilmember Kagawa was noted as not present.)

Ms. Fisher: You will look down and you go, "Oh, my gosh. I am going thirty-five miles per hour (35 MPH)." If anyone has driven that road, they might agree with me.

Council Chair Rapozo: Thank you. Any questions? Councilmember Yukimura.

Councilmember Yukimura: Thank you very much, Meredith, for coming to speak. The Resolution shows that the County Engineer has recommended higher speed limits, thirty miles per hour (30 MPH) for one (1) section and then forty miles per hour (40 MPH) for the other. This Resolution is something you support then?

Ms. Fisher: Absolutely.

Councilmember Yukimura: Okay.

Ms. Fisher: I think that is a very reasonable speed limit for that area. Also, just to let you know, there are no driveways. There are no houses with driveways along that whole road that would be in danger of pulling out into traffic and having cars and things hit them. It is just a really rural road. So, yes.

Councilmember Yukimura: Alright. Thank you very much.

Ms. Fisher: Alright. Thank you.

Council Chair Rapozo: Thank you. Anybody else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: This Resolution will come up later. I only have one (1) question staff, if you could double-check. I know that road was a

condition for the Kukui'ula development, and I want to make sure it does not conflict with any condition imposed back then. Some of those conditions were very specific. I am not sure. So, if we can have someone check with Planning or Public Works to make sure that this does not conflict with the zoning amendment that we had passed years ago. Otherwise, I am in support of this. Thank you.

The motion to receive C 2015-170 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo: Motion carried. Thank you. Next item, please.

C 2015-176 Communication (05/13/2015) from the Mayor, requesting agenda time for representatives from Smith Dawson & Andrews, Inc., to provide the Council with a recap of the services and activities provided to the County during the past year as part of their professional services contract as the County's Washington, D.C. consultants.

Council Chair Rapozo: Thank you very much. Can I get a motion to receive, please?

Councilmember Chock moved to receive C 2015-176 for the record, seconded by Councilmember Kualii.

Council Chair Rapozo: Thank you very much.

There being no objections, the rules were suspended.

Council Chair Rapozo: Welcome to Kaua'i. Nobody wants to sit in that middle seat? Maybe Cyndi. You can start by introducing yourselves for our captioner, who is somewhere on the mainland, then we can begin with your report, and then we will open it up for questions. I would ask Councilmembers to please hold off on questions until we are done with the presentation.

JIM SMITH, President and Co-Founder of Smith Dawson & Andrews, Inc.: Thank you, Mr. Chairman. Good morning everybody. *Aloha*. I am Jim Smith, President and Co-Founder of the firm Smith Dawson & Andrews in Washington, D.C.

MARY CRONIN, Managing Director, Smith Dawson & Andrews, Inc.: I am Mary Cronin. I am Smith Dawson & Andrews, Inc.'s Managing Director, also in Washington, D.C.

CYNDI AYONON, Mayor's Administrative Aide: Good morning everyone. I am Cyndi Ayonon with the Mayor's Office. I assist our D.C. Consultants in coordinating their activities with the County of Kaua'i.

Council Chair Rapozo: Thank you very much. Why do you not start with your overview or your report?

Mr. Smith: Again, thank you for the time this morning on your agenda. As I said, I am Jim Smith, President of Smith Dawson & Andrews, Inc. It is a pleasure to be here today to give you an overview summary of our activities

over the year. I think you did receive a written report via E-mail. Hopefully you have had time to review that so we will not have to go over it in its entirety. We did just want to highlight some of the major activities and projects that we have been engaged with, and then would open it up to any questions that you might have. Mary is going to summarize some of those activities.

Ms. Cronin: Sure. I am not going to go into the level of detail that we have provided in this report of activities. Essentially, over the last year since our report is on those activities, we continue to provide weekly legislative updates. Perhaps you have been receiving those updates. Those include a status of legislation, a listing of all of the hearings that are happening on the hill that week or within that two (2) week timeframe, we also provide a listing of grant opportunities, which I also route regularly to the Department Heads within the County, and in addition whether or not there are any special items of interest, we also provide analysis and summaries of the impacts on the County and make sure that people are informed so that we can take any concerns to the table when necessary..

(Councilmember Kagawa was noted as present.)

Ms. Cronin: We continue to monitor issues of importance to the County. We, of course, filed several appropriations-related requests this year for programmatic funding levels for various programs important to the County. That was with all of the members of the Hawai'i Congressional Delegation. We continue to work hard to build relationships on behalf of the County with various Federal agencies and of course, with members of the Hawai'i Congressional Delegation, and other key Committee members both in the House and Senate, and their staffs. We, of course, have continually provided a lot of assistance when it comes to grants, and have worked hard to acquire or to secure letters of support on behalf of the County grant applications from the entire Congressional Delegation. We have provided a lot of support in just building capacity for grant opportunities, and working with the program administrators within the various Federal agencies to ensure that our grant proposals are as competitive as possible. Of course, when the Mayor made a couple of trips over the last year to Washington for the Annual Conference of Mayors and also for the now Second Annual Taste of Hawai'i, Hawai'i on the Hill, Hawai'i Small Business Summit, we provided support for the Mayor and facilitated several meetings not just with the Hawai'i Delegation, but also with the Department of Housing and Urban Development, the Department of Transportation, U.S. Fish and Wildlife Service, and the U.S. Small Business Administration. Our purpose there is to go build relationships with those agencies, with the staff, and also learn about the funding opportunities or unique opportunities mechanisms that we could be taking advantage of to be able to finance County projects. So, that is really just a brief overview of most of the activities of the past year.

As you know, we are heavily focused on securing Federal grant funding for the Departments. I guess after many meetings discussing our key priorities, we decided to focus on a TIGER grant, which is the Transportation Investment Generating Economic Recovery, which as you know, you have been briefed on that proposal. That was really a model for how best to pursue Federal grants. We were really impressed with the way that County was able to put together a team and to begin working on this project over a year ago. When we were here last June, that was when we started the process, getting everybody to the table and deciding, okay, what is the best proposal for a TIGER project, what would be most competitive, what will align with the appropriate criteria for the most recent TIGER programs, and what we need to do, and when do we need to do it by in order to be prepared for the next round of

TIGER. We started that process in June. Then in August, we actually began hosting some meetings with the Department of Transportation in Washington and the County, and starting to just lay the groundwork for that proposal. That process continued. In the fall when we finally had a Fiscal Year 2015 Federal budget, we knew there was going to be five hundred million dollars (\$500,000,000) for the TIGER program for a 7th round. We knew that based on what we had learned in our experiences meeting with the Department of Transportation, that the focus would be on what they call "ladders of opportunity" so, making connections for low-income, elderly, and disadvantaged communities and transforming those communities so that they will have more opportunities and access to health care services, transportation, jobs, and all of those things.

We started that teamwork and put together the proposal, and continued to meet with the Department of Transportation. We met with the Deputy Secretary just last week, Victor Mendez. We met with the Federal Highway Administration (FHWA) Administrator, Greg Nadeau, in January, August, December, February, and April, and then also I think in May. We had meetings in person and over the phone. We conducted conference calls with the County staff with the Department of Transportation TIGER leads, both Robert Mariner and John Augustine. We really doubled-down on our effort to communicate with them and make sure that we were addressing all of the concerns and red-flags, and making sure all of the environmental reviews and all of the components of these projects were in place. We put together a menu list of components for the grant proposal per their recommendations. We really did everything that we possibly could to be as competitive as possible. We feel that there is not much more we can do at this point. We have to wait. But we worked closely with the Congressional Delegation throughout the process, briefing them, and providing them regular updates of what our activities were in terms of trying to make the proposal most competitive. They of course are providing a Congressional Delegation letter of support for this project as well as two (2) other projects submitted from Hawai'i. One is a Harvard project on O'ahu and the other one is bus purchases for Honolulu. There are three (3) TIGER projects. Those two (2) are in a different pot of funding. This particular project, as you know, is in the rural pot of funding. They are not necessarily competing for the same funds, although the competition will definitely be very tough.

Mr. Smith: I would just augment what Mary said with regard to this TIGER application. Really, I would like to commend the County staff for doing an excellent job in putting together that application. If any of you have ever reviewed the TIGER program, you know that it is daunting to put these applications together. It is very challenging. You have to be very specific, very concise, and you have to address the criteria that is laid out in the funding availability announcement. It cannot be any more than thirty (30) pages. That might seem like a lot, but for a project of this magnitude and all of the information that is called for, it is a real challenge to get in under thirty (30) pages. But the County staff did. I think they did an excellent job. I think they submitted a very competitive project. I have reviewed a lot of TIGER applications in the past, both successful and non-successful ones. I think that this one stacks up as a very good and competitive application. That being said, it is one of the most competitive Federal programs out there. So, there is no guarantee that we are going to be successful, but I think we can be very proud of the effort that the County put forward. Quite honestly, if you look at the TIGER program, many of the projects that have been funded in the previous six (6) years did not get it the first time, but they got it the second year or third year. We may not get it this year. It does not mean we cannot go back next year or we may not even get the whole

project this year, but get components of it. It was a great effort. I commend the County and we are keeping our fingers crossed.

Ms. Cronin: After we found that there was a lot of success in that model, creating the team, and doing all the things that we have to do to be competitive, we have narrowed some focus on some particular grants for some key County projects that we feel best align. This week, while we have been here meeting with the Department Heads within the County, we have provided them a booklet of all of those grant opportunities that we think we should focus on. We have done that in the past. We have cast a really wide net. We have looked at a lot of different grants. Rather than presenting one hundred (100) or two hundred (200) grant opportunities, we have narrowed down to about fifty (50). Each grant opportunity is aligned with a particular project. So, Department Heads can take a look at those and they can make some determinations to determine how viable or how feasible it might be to pursue some of those, again, in a team-like format. They will be working on that probably in next couple of months. Most of those grants do not come out until January through April timeframe. They will have some time now to begin putting the timeframe together in order to expect those grants. That is it.

Mr. Smith: Any questions?

Council Chair Rapozo: Thank you very much. Councilmember Yukimura.

Councilmember Yukimura: Thank you for being here today. Based on your report, I am very pleased with the service that you have provided to the County. I want to thank you for that. Thank you, Cyndi, for the coordination. The last thing you mentioned was narrowing the projects or the grant focus, and I think that is a great idea. Is that something that the Council could get, that report that you gave to the Administration?

Ms. Cronin: Absolutely.

Councilmember Yukimura: Okay. Then in your report you mentioned working with the U.S. Fish and Wildlife Service, and I wondered if the problem that we have been experiencing on the North Shore between the taro farmers and the U.S. Fish and Wildlife Service has been addressed in those meetings?

Ms. Cronin: The meetings that we have had with U.S. Fish and Wildlife Service have really been to be briefed, to receive updates, and just have a conversation about where they are in the process of putting together the Kaua'i Habitat Conservation Plan (HCP) and what to expect...

Councilmember Yukimura: It is the Conservation Plan, CP?

Ms. Cronin: Yes.

Councilmember Yukimura: Okay.

Ms. Cronin: We have not talked with them about the taro crop issues.

Councilmember Yukimura: Yes. Okay.

Ms. Cronin: That is something that would be a totally separate issue and I believe separate staff who we then have been speaking with.

Councilmember Yukimura: That would be. I think it is primarily with the Region 10 in Seattle. The problem briefly, I think it is the largest taro production area in the State, in Hanalei Valley and it is the U.S. Fish and Wildlife refuge. So, it is both a refuge and a *lo'i* or taro, farming goes on there. It produces the most taro, I think, in State. The farmers have been experiencing severe deprivation where the birds are eating the plants to the tune of hundreds of thousands of dollars. Really impacting them. The farmers are more than willing to work with the U.S. Fish and Wildlife Service with measures that will not hurt the wildlife. But the U.S. Fish and Wildlife Service has been quite rigid in its policies and has not been forthcoming with data that would support their policies. So, this has been a subject before the State Legislature and is of major economic development agriculture issue. So, some help with communication would be really helpful to the farmers in that area.

Ms. Cronin: Okay. I think that is something we could work on with the refuge staff, which I think are actually based in the Portland office.

Councilmember Yukimura: Yes.

Ms. Cronin: Also, the ecological field staff, who I believe are base here in Honolulu. So, perhaps we could arrange to have a conference call with them and discuss our options.

Councilmember Yukimura: That would be very helpful because we have to find a solution if we want both this cultural crop and the very important food source to continue with the idea that we would not harm the wildlife either, that we could actually find a very good way of co-existence.

Ms. Cronin: Okay.

Council Chair Rapozo: Thank you. Hang on. Councilmember Kagawa.

Councilmember Kagawa: Follow-up question regarding U.S. Fish and Wildlife Service. Have you done any work regarding the Newell Shearwater problem and our football lights, because I really worked with Senator Schatz and Dale Hahn from the Honolulu office? I think the message to me was that they see it is pretty realistic that they could possibly add one (1) or two (2) more night games on a trial basis. I do not know if you folks have spent any time on that issue or if that is not in your scope?

Mr. Smith: Well, we have had conversations with U.S. Fish and Wildlife Service. We have had meetings with them. We met with them recently when the Mayor was in Washington. It has been more of a monitoring engagement that we have had with them and keeping track of where they are with the process. There has been discussion. Of course, they are well-aware of the football lights, the issue, and the importance of that to the community. But Mary, you were with the Mayor last week. Maybe you would report on that meeting.

Ms. Cronin: Right. The Mayor has continually brought this issue up with the congressional staff, and of course, the County Attorneys are in constant communication with the congressional staff on these issues and also have

been in constant communication as you know, with Division of Forestry and Wildlife (DOFAW), the Department of Land and Natural Resources (DLNR), and U.S. Fish and Wildlife Service. So, that is ongoing. When the Mayor was in Washington, for example, last week, we had a meeting with the U.S. Fish and Wildlife Service. The update that they gave us was that the plan is currently being drafted, and that there is no timeline right now. We do not know when to anticipate that plan being complete. But they have received a number of updates from the County Attorneys on just suggestions and things that they could consider when drafting the plan. They have really presented them with a lot of options. We are waiting to see whether or not any of those suggestions will be included in this plan that they are drafting. As far as the issue of more football games, I think what the outcome or what the answer is from all has been that there are no exceptions to the Endangered Species Act. There are no waivers possible. In the event that you would like to host more football games, "Friday Night Lights," then that is probably a policy decision that you will have to make as a board, and that there will be at some point, a cost associated with that.

Councilmember Kagawa: Can I interject? So, no matter if the lights are killing just one (1) or two (1) and the rats and cats are killing hundreds and thousands, the Federal government refuses to acknowledge that they are focusing on the wrong problem? Is that how it works? U.S. Fish and Wildlife Service, they do not care whether hundreds and thousands are being eaten by feral cats and rats, which they do not nothing about. They used to drop bait and things with DLNR. But they are just going to worry about one (1) or two (2) that happens to maybe die from lights? Is that how it really works?

Mr. Smith: Well, I do not think it is quite that simple. I should say we are not attorneys and some of these issues...

Councilmember Kagawa: That is why the problem is that we live here. We know what happens.

Ms. Cronin: Right.

Mr. Smith: Right.

Councilmember Kagawa: In Washington, they do not know what happens here.

Mr. Smith: I understand.

Councilmember Kagawa: For them to make the call here and make such drastic consequences on our public, and for us to say, "For five (5) years, we are doing all we can, but too bad. No games unless you have to pay ten thousand dollars (\$10,000) a bird." Is that how it works? I mean, I am serious.

Mr. Smith: Well, they do look at the bird as "takings" and there is a fine or a fee associated with takings.

Councilmember Kagawa: If the rats and cats eat one (1) bird, nobody pays for that take. The Federal government or the State DLNR does not pay for that dead bird?

Mr. Smith: No.

Ms. Cronin: Well, we have to wait and see to see what this plan is going to say and what they are going to recommend, whether they recommend a replacement process or whether they provide some sort of mitigation.

Councilmember Kagawa: I understand. Do you see where I am coming from though?

Ms. Cronin: Yes.

Councilmember Kagawa: To me, to focus on one (1) or two (2) from the lights and just ignore hundreds and thousands, I mean, you cannot make sense of that one to me. Thank you, Chair.

Council Chair Rapozo: These are the wrong targets for that. Let me just share what I just found out. I too, like Councilmember Kagawa, have been following this and I met with our Congressional Delegation in March in D.C. I begged them to at least fight for us and get us a three (3) hour a week or a two (2) hour a week waiver. Granted there is no waivers. It is a big issue with National Association of Counties (NACo).

Ms. Cronin: Yes.

Council Chair Rapozo: The Endangered Species Act is causing numerous problems throughout the Country. This is where I think we need to focus, the Habitat Conservation Plan, that is the issue. We, the Council, funded that plan many years ago, and until today, it has not been completed.

Mr. Smith: Right.

Council Chair Rapozo: The problem, as I just found out, is that the whole focus for the County anyway was the light, the damages to these birds from the lights. Recently, we found out that that may not be necessarily true. That, in fact, the power lines from Kaua'i Island Utility Cooperative (KIUC) are killing the birds, and that has been documented.

Ms. Cronin: Yes.

Council Chair Rapozo: That has been proven. Now the emphasis is hey, wait a minute now. Maybe it is not so much the lights. Maybe we have to start turning our attention to the power lines. I guess for me, at some point, we have got to separate ourselves, the County, from this massive Habitat Conservation Plan, which links us in with KIUC, all of the hotels, and everybody else, and say, "Let us focus on the County's responsibility" and get a Habitat Conservation Plan for the County so we can get our takings permit so we can continue what we have been doing. But as long as we are tied in with KIUC and everybody else, we are basically at their whim and we have got to wait until this plan is complete so we can get a little license that says, "Okay, your activity will affect x amount of birds and here is your permit."

I do not know what we can do, and I am hoping to have some dialogue with the State and the Administration, that hey, we have got to sever ourselves so the County of Kaua'i can have a Habitat Conservation Plan for the impacts that we cause to these birds. But I guess what I am troubled is that even though we have now acknowledged that maybe the lights are not causing the major damage or the major killing of the birds, I do not see, and I see Councilmember Kagawa's frustration. It is even though

we know that, that is not changing the minds of the people that their minds needs to be changed. That is not you two (2). So, please, do not take this as a criticism because I appreciate your help.

Mr. Smith:

No.

Council Chair Rapozo: But at some point, the County has to say, "Do you know what? It is a policy decision." It is not our policy here because we do not have that authority to tell the Administration "leave the lights on." But the fact of the matter is that it is a policy decision by the Administration. If the Administration felt that it was important, we could run the lights and take the risk of having to pay a fine. The reality is how many birds really have fallen during the night games? Last year, I believe last season, they did one. They had all the people from the Federal government here monitoring, getting paid overtime to monitor, and there were no incidents. The lights are not causing it. That is what he is trying to say. The lights are not causing the problems that they have painted the picture. I guess that is my request. I know you work for us. So, you do not tell us what to do.

(Councilmember Kagawa was noted as not present.)

Council Chair Rapozo: We ask you to help us in certain things. I am asking that in the next discussion, if you could try to cover those bases or those concern because they are real. I do not know what KIUC is going to do with the lines up at the power line. They are going to have to move them. They are. There is no exception. They are going to have to relocate those lines up at the power line trail at a substantial cost, millions and millions and millions of dollars. Who is going to pay for that? Everybody who turns on a light switch. It is a bigger issue. Believe me, Friday Night Lights is critical. But as long as we are tied in with the entire HCP for the island, we will never get a takings permit. That is how I feel. So, maybe it is time to have that discussion that we separate ourselves out and work on the HCP for the County of Kaua'i to move forward. Those are just my thoughts. I do want to say that I have seen both of you in D.C. working very hard for us and I appreciate that.

Mr. Smith:

Thank you.

Ms. Cronin:

Our pleasure.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: Just a quick clarification question because you just kept using the word "plan." But on this bullet it has the Kaua'i HCP, which is the Habitat Conservation Plan, and then it also has the Habitat Mitigation Plan.

(Councilmember Kagawa was noted as present.)

Ms. Cronin:

It is all one in the same.

Councilmember Kualii:

It is all one in the same?

Ms. Cronin:

Yes.

Councilmember Kualii:
you said.

There is no timeline right now, I think is what

Ms. Cronin: No.

Councilmember Kualii: We have been working on it for how long?

Ms. Cronin: Well, several years.

Councilmember Kualii: And there is no end in sight?

Council Chair Rapozo: No.

Ms. Cronin: Well, we do not have a deadline. We do not have a date-certain, yes. But I will add, Mr. Chairman, last week, when we met with the U.S. Fish and Wildlife Service, they did say that they are working on splitting out the takes between light attraction and power lines. That is something new that they brought up.

Council Chair Rapozo: That makes me happy because that is what needs to be done.

Ms. Cronin: Yes, and they are talking with KIUC.

Council Chair Rapozo: Okay. Perfect. That is a great start because that is what we need to do because the light issue is completely different from what the power lines are doing and we should not be put in the same basket and our people should not be suffering because of that. Anyway, thank you very much for that clarification and I appreciate your work. Councilmember Chock.

Councilmember Chock: Thank you. Just one (1) request. Thank you for all of the work that you folks do. Mary, you talked about you will get word of what grants are available in January/February.

Ms. Cronin: Yes.

Councilmember Chock: I was just wondering if with you and Anne, if we could get the recommendations for the projects that we have.

Ms. Cronin: Sure.

Councilmember Chock: I do not need the long version, just...

Ms. Cronin: Just the chart?

Councilmember Chock: Yes, just a chart of which ones we are moving towards.

(Councilmember Kagawa was noted as not present.)

Ms. Cronin: Sure.

Councilmember Chock: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I have just a follow-up to Councilmember Chock's question. I was just wondering, how much money are we talking about as far as the fifty (50) grants? It does not have to be exact, just an estimate.

Ms. Cronin: Oh, they are all different. Some grants are small as ten thousand dollars (\$10,000) or twenty-five thousand dollars (\$25,000), and relatively speaking, I mean, that may not be small. That may be a lot and there may not be a match required for something like that. Then there are some grants that are in the millions.

Mr. Smith: Then the TIGER project that was submitted was a request for fifteen million dollars (\$15,000,000). So, the range is wide. It just depends on the agency, the program, and the project.

Councilmember Kaneshiro: And you answered my second question about how much money we are expecting from the TIGER grant.

Mr. Smith: Well, the application or the request, was for fifteen million dollars (\$15,000,000). We will see what we get.

Ms. Cronin: It is broken down into a menu.

Councilmember Kaneshiro: I will hold you to it. What did you say?

Ms. Cronin: It is broken down into a menu of options. So, each component has its own price. But they all add up to a fifteen million dollar (\$15,000,000) request.

Councilmember Kaneshiro: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Yes. Just a follow-up comment about the birds and lights issue. It appears based on what the Chair is saying, that it is a data question and there are some parallels to the situation in Hanalei Valley. U.S. Fish and Wildlife Service needs to be able to back up their policies with data because some of their policies have such extreme impacts on us. If they have actual data, that is one thing. But if they do not, and they need to be able to support their policies with data. I have questions on page 4 in your report. You mentioned Climate Action Champion's Designation.

Ms. Cronin: Yes.

Councilmember Yukimura: And also your Environmental Protection Agency (EPA) Smart Growth Technical grants. I wondered if you could explain those two (2) to us.

Ms. Cronin: The County submitted a designation application to the U.S. Department of Energy for Climate Action Champions. It is really just to recognize the County for all of the work that they have done in terms of addressing climate challenges. There were a number of projects and activities reported in this. I believe it was only a four (4) page application. It was very, very brief. The County was not awarded the Climate Action Champion's Designation. The benefit of receiving a designation like that is really for purposes of getting some

preferential treatment towards grant opportunities within the Department of Energy, but also within the Department of Environmental Protection Agency and other energy-related agencies. We are seeing a lot more designation opportunities in addition to grants these days. Those people that are receiving these designations are receiving a little bit of prestige that comes along with it and then preference when it comes to grants. The EPA's smart growth toolkit technical assistance piece, that proposal was for, I believe, for bike-share planning. It was not awarded to us *per se*, but what happened was it struck up an interesting conversation and there is some technical assistance planning for bike-share happening throughout Hawai'i. So what they told the County is that they will work with the County on providing them with technical assistance on bike-share planning as part of this larger opportunity. It was very well-received when that application was submitted. It started to build a relationship and they realized that Kaua'i needs this as well. So, that was really the benefit to that application.

Councilmember Yukimura: Excellent. Thank you.

Council Chair Rapozo: Thank you. Any other questions? Go ahead.

Councilmember Yukimura: Transit Tax Benefit Extender Bill, can you explain that?

Mr. Smith: That is a tax fringe benefit that is provided to employees when employers subsidize their transit passes. It has been on the books for several years and the point is to provide parity with subsidized parking.

Councilmember Yukimura: Yes.

Mr. Smith: Subsidized parking is eligible up to two hundred fifty dollars (\$250) a month and tax credits for subsidized parking. The transit benefit had always just been one hundred twenty-five dollars (\$125), but under American Recovery and Reinvestment Act (ARRA), the stimulus recovery act that President Obama passed in 2009, they increased the transit subsidy to be equal to parking. But it was only for three (3) years and then it expired. Now it has been a part of what they call the "tax extenders package," which includes a whole slew of Federal tax breaks for everything for research and development for corporations to this transit fringe benefit. It was extended for one (1) year and expired December 31st. Currently, it is at one hundred thirty dollars (\$130) and parking is at two hundred fifty dollars (\$250). The proposal and what we have always advocated for is to extend that at least temporarily, but more importantly, to make it permanent so that there is no disparity between parking and transit. We do not want to encourage people to drive cars at the expense of taking buses.

Councilmember Yukimura: This goes to the employer?

Mr. Smith: It is a tax-free benefit to the employee.

Councilmember Yukimura: It is like a flexi spending benefit?

Ms. Cronin: Yes.

Mr. Smith: Yes. It is taken off the top of your payroll and it is tax-free.

Councilmember Yukimura: So, you can use pre-tax money to pay for your transit?

Mr. Smith: Right.

Councilmember Yukimura: Okay.

Ms. Cronin: And then the pass is not taxed either. If you were to buy a pass off the street, you would pay a tax on that. But if you have a pass with your employer or through this program, then you would not pay the tax on that.

(Councilmember Kagawa was noted as present.)

Mr. Smith: It is a pre-tax benefit, essentially.

Councilmember Yukimura: Yes.

Mr. Smith: So, it is two hundred fifty dollars (\$250) tax-free that goes to purchase a transit pass.

Councilmember Yukimura: Okay, and it is in effect up to one hundred thirty-five dollars (\$135) for transit?

Mr. Smith: One hundred thirty dollars (\$130), right.

Councilmember Yukimura: One hundred thirty-five dollars (\$135) a month?

Mr. Smith: A month, right. We can get you more detail.

Councilmember Yukimura: Yes. Thank you, because it is something, I think, employers would want to know. There are some employers who will purchase...no, I do not think we have that. But in some jurisdictions, they allow for bulk purchase of passes. For example, I know that Wilcox Memorial Hospital, I believe, purchases bus passes for their employees.

Mr. Smith: I am sure they are taking advantage of the benefits.

Councilmember Yukimura: Okay. So, the more employers who know that, that would be encouragement for them to do that.

Mr. Smith: Right.

Ms. Cronin: Yes.

Councilmember Yukimura: Not to mention not having to provide parking for their employees.

Mr. Smith: Exactly.

Ms. Cronin: Yes.

Mr. Smith: As you can imagine, and a lot of the larger cities around the Country, it is immensely popular. In Washington, D.C., the Federal government provides the transit tax benefit to all Federal employees. It is a huge incentive for employees to take transit as opposed to driving.

Councilmember Yukimura: Yes. Thank you.

Council Chair Rapozo: Thank you. Any other questions?

Councilmember Yukimura: I have one (1) more request.

Council Chair Rapozo: Okay. Go ahead.

Councilmember Yukimura: This goes to Cyndi. Could we get a copy of the Climate Action Champion's application? Thank you.

Council Chair Rapozo: Thank you. I just have one (1) question on the municipal bond issue. Did we participate in that at all?

Ms. Ayonon: Yes.

Mr. Smith: Well, we have lent our voice with NACo in supporting the continuation of tax-free municipal bond financing.

Ms. Cronin: And we have done letters of support to the Congressional Delegation asking them to maintain the tax-exempt nature of municipal bonds.

(Councilmember Chock was noted as not present.)

Council Chair Rapozo: I am assuming that we got support from our Hawai'i Congressional Delegation.

Ms. Cronin: Absolutely. Yes.

Mr. Smith: Unanimous.

Council Chair Rapozo: Thank you. Any other questions? If not, thank you very much. I just want to say, I mean, I think our budget line item says "D.C. Lobbyists." Lobbyists sometimes has a negative perception from the general public, but you are more of our advocates. That is kind of the way I look at you folks, as advocates, because you folks work so hard to try to work on our behalf. It is difficult, we being all the way over here and D.C. is a busy place. So, we appreciate you being our eyes and ears. Thank you so much.

Mr. Smith: Thank you. We appreciate that.

Ms. Cronin: Our pleasure.

Council Chair Rapozo: The TIGER grant, we just approved that TIGER grant here on the Council, the application, not long ago. I believe that is the first application Kaua'i has ever sent in for TIGER. It is used a lot throughout the Country. But it is our first attempt. I just want to put things in perspective. The technical support that we got from your firm in itself, was well-worth the cost that

we pay for the entire year of services' from your firm. I am not saying that so you bump your price because we appreciate your services. Just putting it in perspective, when you look at all of the time that you spend on the County of Kaua'i, I just want the public to know it is money well-spent. I remember years ago, there was a question. I remember years ago, it was left out of the budget in trying to cut costs. I believe the Council encouraged and got the Mayor's support to put it back in, and hence, you folks are here today. I want to say thank you for your service and for the public to really appreciate it. There is no way we could do this without some help in D.C. We appreciate you keeping your rates down and the people of Kaua'i appreciate that because it is a vital service that really, there is no way we could have completed the TIGER grant unless we had hired a consultant to help us with the application, which would have cost us a lot of money.

Mr. Smith: We appreciate your comments. Also, thank you for the opportunity to work with the County. We consider it an honor and a pleasure. I should say that we do not consider ourselves as lobbyists. We consider ourselves an extension of County staff. We are here to support the Administration, to support the County Council, and to provide the resources that are important being so far away, to be able to compete with the program like TIGER. Again, thank you.

Council Chair Rapozo: Thank you very much.

Ms. Cronin: Thank you.

Council Chair Rapozo: You can go ahead. We are going to take some public testimony. Is there anyone in the audience wishing to testify? Mr. Bernabe.

MATT BERNABE: Matt Bernabe, for the record. I just wanted to weigh in. I had one (1) question, but I will weigh-in on another issue. The football light issue is that nobody is talking, even in this conversation, how much of a problem the plastic in the ocean is with the reproductive system. Their shells are thin, their bellies are full, and they are dying because they are starving. They do not have any place to put the food. I wanted to add that in because with you folks were talking about it. But the real reason I wanted to speak right now on this issue is everybody likes grants. I am not going to dog the TIGER grant.

(Councilmember Chock was noted as present.)

Mr. Bernabe: I do not know anything about it. But from my short experience in life, there is easy acceptance criteria when you get these grants and penalties if you do not live up to them. I really agree that yes, we need these people out there. But when we accept grants, it is like Homeland Security money. The police force therefore have to do what the Federal standards is once they take that kind of money. Sometimes to me, I would rather look at financial solutions right here, like investing in the farming idea of export, real agriculture, versus always looking for grants. I am not saying this as "oh, that is a bad thing." I am just saying as a skeptic. What are the unknown stipulations or the known stipulations? I am sure that they know some. But sometimes there are unknown kinds. Like I said, what happens if we do not live up to the criteria of accepting some of these funds? Obviously, I do not know the ins-and-outs of each one, but I am always going to have a little bit of skepticism when we are just looking for grant money. Thank you.

Council Chair Rapozo: Thank you, Matt. Just for your information and public, all of the applications for grants have to come here. It is at a public meeting just like this.

Mr. Bernabe: Perfect.

Council Chair Rapozo: If you are concerned and interested, you can get a copy of the grant application and review it. We do, and that is a concern. Sometimes we chase money. In the TIGER grant, for example, we have a project that we want to do. We are basically asking the Federal government to consider funding it, unlike the Federal government saying, "Hey, we have this money for you to do this." We are saying, "Hey, we have a project that we want to do. We want to use TIGER money" and we are hoping that the Federal government says, "It fits within the criteria."

Mr. Bernabe: Thank you. I trust you folks.

Council Chair Rapozo: Anyone else in the audience wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Mr. Chair. First of all, I want to commend the consultants or lobbyists for the job that they have done. I thank them. My frustration on the Friday night football games being taken away, I think we are going on our fifth year. At a given time, we can have up to six thousand (6,000) people or more attend Friday night football games. It is one of the important things that we have going on Kaua'i. If in fact the reason for shutting down Friday night football games was to save the Shearwater population, then I could understand it. But I really see a lot of other things that are killing Shearwaters at a much higher rate that are being ignored by the State and by the Federal government. They have the expertise and the finances to take care of that problem as far as building a habitat and preventing rats and cats from getting into nests. To just really penalize our children is what we do by failure to make any progress on extending more night games to our *keiki*. Recently, we had Marcus Mariota, number one pick. A lot of our children out there, they participate in football hoping to make that kind of dream come true. Again, our failure to really recognize the real problem and allow Friday night football games to continue because it is not the reason why the Shearwater population is declining. I do not know even if it is declining. When we had this discussion before the experts from the State from the non-profits, I said, "How much Shearwaters are there right now?" They do not even do a count. They guesstimate by sonar or radar or whatever and they see how much are flying over. They just multiply it or I do not know what their real rationale is for how much Shearwaters there are. How do you say it is endangered if you do not even do a count? I think one fact was that the mongoose population on O'ahu shut them down and that is why Kaua'i has the abundance of it. If the Newell Shearwater population is really down, then take care of the mongoose. Why just penalize our youth? That is my issue. I will continue to fight this issue. I thank Senator Schatz. He is the only one that has responded and is really trying to do something about extending more games and yet, trying to be responsible in knowing that we have a court order that we need to follow. But he talked about extending one (1) or two (2) more games. Instead of three (3)

games, we get five (5) out of the nine (9). Hopefully, we can get some progress. I will continue to work with him. But I just wanted to make my feelings known. This is an important issue. I think our consultants should continue to try to make progress on these night football games because I strongly believe that the night football games are not by any chance killing the endangered population, and I think we need to do something about it immediately. Thank you, Chair.

Council Chair Rapozo: Thank you. Any other discussion?
Councilmember Yukimura.

Councilmember Yukimura: Yes. It is very evident from the report and the results that we are getting, that the consultants from Smith Dawson & Andrews are doing a very good job for us. I just want to say how pleased I am. It is very clear that their help is very substantial. I appreciate the coordination that Cyndi has been doing with them. I want to thank Councilmember Kagawa and Chair for continuing to inquire about the football light situation. If it is indeed hurting the Shearwater population, we need to take measures to prevent the harm. But if in fact the data shows that is not the real cause of the problem, then that needs to be recognized. This idea of what is really causing the problem is very important. I guess I just want to say that I am hopeful that we get the TIGER grant. At the Smart Growth conferences, the TIGER grant has been a major source of discussion and to see that we are now able to take advantage of that opportunity. I do want to thank the Administration and all of the different team members who have been working very hard for this because it is a very worthwhile project, and even if we do not get all of the money or do not get all of the money now, I am confident at some point, we will be able to get funding for this project and we need to see it move forward. Thank you.

Council Chair Rapozo: Thank you. Councilmember Kualii.

Councilmember Kualii: There is definitely a lot of good information in the legislative recap that they also provided. The only thing that I would say is that there is so much information, and it is good to have it all. But I would think that it would work better for the County, and maybe coming from the Mayor's Office, if there was two (2) kinds of information. One, all of the information of all of the legislative activity, and two, the second part, the ones that matter that we need to take action on. If we are asking Congress for letters of support with this Climate Action Champion Designation, with this EPA Smart Growth Technical Assistance, it would be good instead of now Councilmember Yukimura asking for a copy of that, for us to see what it is really about and how we can support that. In fact, when we are initiating it, it comes to the Council and then goes out to the community because I think more than information sometimes on the specific things that matter that we are trying to accomplish and win the grant or win the designation, having community support, and mobilizing the community to also send letters of support and call the Congressmen and their Senators, that could help. I think as a community organizer, who does that in the community, I think it is important to take it to the next-level and to engage the community where we can, the citizens, and to ask them to mobilize where it makes sense. I think as the Chair of Economic Development & Intergovernmental Relations, I want to help with that. I will work with you, Cyndi, and the Mayor's Office. But a lot of great things here and a lot of potential for bringing more resources and more good things to our County. Thank you.

Council Chair Rapozo: Thank you. Any other discussion? If not, very good points. Years ago, we asked for more regular reports from the lobbyists/advocates. So, now they send us a report every month. I believe we get it

every month. We all get it. Because I agree with Councilmember Kualifi, that some of these issues maybe should be brought to this table in the public so we can solicit the support of the communities. I do not think we should have a monthly report. But maybe working with the Economic Development & Intergovernmental Relations Committee Chair, when there is an item that is of that level of importance, that we should and have their report, not them, but their report and then we can solicit maybe a Resolution on our part and obviously, the community's support. I think great points. I mean, this is becoming a bird debate, but I think it is that important. Councilmember Yukimura, she made the accurate statement that it is a data collection issue. It is a data issue. We are working with, as Councilmember Kagawa said, that we do not even know if it is accurate. Matt Bernabe talked about the birds that are plastic and whatever. These birds leave Kaua'i and they go out for a long time. They land on the water, they rest on the water, and they get eaten by fish. They eat things that kills them. There is no way of counting those birds. The Federal government in their wisdom, assumes that those birds are dying on land because of lights or lines, and that is the methodology that they have been using all along. Now with this recent development, someone put up a recording device on the lines and they are finding when these birds hit the lines. It is counting them. One thousand two hundred (1,200) birds were found to have been killed on by the lines on the power line trail. One thousand two hundred (1,200), which prior to that it was supposed assumed it was because of the lights. My point is this, we, and not maliciously, but we have been provided misinformation because we have no way of counting the birds as they die in the ocean or die enroute or hit a window. But we have been basing our policy decisions and legal/lawful decisions based on misinformation. Councilmember Kagawa is exactly right. How can we punish anyone without this information? Now, this new development where the one thousand two hundred (1,200) birds, that is to me, substantial. That is substantial. Substantial enough that maybe we have to relook at our policy and say, "Do you know what? Let us go this season playing night football." That in itself, according to U.S. Fish and Wildlife Service, they told me that they are going to let us play one (1) more game this year at night. But let us see what happens. I do not want to see the birds die. But we spent a lot of money on the shielded lights and they work. What I am saying is that we sometimes have to step out of box and make that decision, and say, "We will prove to you folks that you are not wrong and we are not killing one thousand two hundred (1,200) birds." I am sorry, I had to vent. Councilmember Yukimura.

Councilmember Yukimura: I just want to also say in response to the feral cats issue, that our Feral Cats Committee is working hard to address that issue following-up on the task force report that was done by the task force that the Administration convened and facilitated. Anybody who wants to work on that problem, please see me. But there is ongoing work being done on that. Thank you.

Council Chair Rapozo: Thank you. Any other discussion?

The motion to receive C 2015-176 for the record was then put, and unanimously carried.

Council Chair Rapozo: Thank you very much. Next item, please.

Mr. Sato: We are on the top of page 3.

C 2015-177 Communication (05/22/2015) from the Housing Director, requesting Council approval of the following:

- Disposal of twenty-two (22) boxes containing Housing Assistance Participant records (outdated); closed Homebuyer loan payment records; purchase orders; bank statements; employee timesheets; payroll summaries; Community Development Block Grant (CDBG) files for Fiscal Year 2007-2008, Health Insurance Portability and Accountability Act (HIPAA) files from years 1998, 1999, and 2000; and Pa'anau/Kalepa payment requests from Fiscal Year 2005-2008, pursuant to Section 46-43, Hawai'i Revised Statutes and Resolution No. 49-86 (1986) as amended, which has been kept for over seven (7) years and are no longer of use or value; and
- Continued authorization to dispose of similar records as they become seven (7) years old.

Councilmember Kagawa moved to approve the first bullet of C 2015-177, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Discussion? Did you see the memorandum (memo)? Not that one. The memo from Housing. It is in your packet. They are requesting that the document in front of us be revised by deleting "Requesting continued authorization to dispose of similar records as they become seven (7) years old." I would not have supported it with that in their anyway. I am glad they are agreeing to take it out. Councilmember Kagawa's motion was to approve the first bullet. I guess I would ask the motion to be approving the document on the condition that section "Requesting continued authorization to dispose of similar records as they become seven (7) years old" be deleted.

Councilmember Kagawa withdrew the motion to approve the first bullet of C 2015-177. Councilmember Kaneshiro withdrew the second.

Councilmember Kagawa moved to approve the disposal of records as requested, removing the clause "Requesting continued authorization to dispose of similar records as they become seven (7) years old," seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Discussion? Any public testimony?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Mr. Sykos.

LONNIE SYKOS: For the record, Lonnie Sykos. Hello Council. One of the reason I came today was because of the second bullet. I would like to thank the Council for removing that. It is grossly inappropriate to automatically eliminate records. There could even be, in the future, an investigation going on and then we discover that we intentionally destroyed the records required for the investigation. Thank you, Mel, for paying attention to this detail and the rest of you. *Aloha*.

Council Chair Rapozo: Thank you. The Administration had requested it be deleted before it hit the floor. Any other public testimony?

There being no further testimony, the meeting was called back to order, and proceed as follows:

Council Chair Rapozo: Further discussion?

The motion to approve the disposal of records as requested, removing the clause "Requesting continued authorization to dispose of similar records as they become seven (7) years old was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

C 2015-178 Communication (06/01/2015) from the Chief of Police, requesting Council approval to purchase the Officers Safety Package from TASER International, Inc. in the amount of \$51,608.42 from the Kaua'i Police Department (Account No. 206-1001-551.89-06, Asset Forfeiture Account). This package consists of one hundred five (105) Axon Flex Body Cameras, twelve (12) Axon 6-bay Evidence.com docks, unlimited Evidence.com video storage, one hundred five (105) collar/versatile/cap flex mounts, one hundred five (105) controller/holster/belt clip flex, premium plus service, one hundred five (105) X26P Taser Conductive Electric Weapons (CEW), 4-year warranty on one hundred five (105) X26P CEW, one hundred five (105) X26P CEW battery packs, and one hundred five (105) X26P CEW holsters: Councilmember Kagawa moved to approve C 2015-178, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Any discussion? Any public testimony?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Ms. Cowden, or do we have signed up speakers?

Mr. Sato: We have two (2) registered speakers. The first speaker is Lonnie Sykos, followed by Felicia Cowden.

Mr. Sykos: For the record, Lonnie Sykos. Just a note for process. It would be much better for the public to hear what the Police Department has to say before the public is asked to come up and comment.

Council Chair Rapozo: I appreciate that. If you would like, we will call them up first and then have the public testimony after that.

Mr. Sykos: Yes please. Thank you.

Council Chair Rapozo: We will not charge Mr. Sykos for his time. Thank you. KPD.

ROBERT GAUSEPOHL, Assistant Chief: Good morning Council Chair and Councilmembers. Rob Gausepohl, for the record. Basically, I made a big mistake and did not realize that we did not already ask for this. We have been before Council multiple times on this issue. I very much apologize for my mistake. It is my error.

Council Chair Rapozo: So, you do not need this?

Mr. Gausepohl: No, we do need it.

Council Chair Rapozo: Oh.

Mr. Gausepohl: We thought we already had it.

Council Chair Rapozo: Oh, you thought you had it. I am sorry.

Mr. Gausepohl: We thought we had approval to expend it.

Council Chair Rapozo: Did you want to go over it real briefly? I guess it would be beneficial, as I read your responses and the original communication, if you could just go over the process that you are seeking. Basically, you have inventory, the company came up with a new product line, they are going to give you credit for your old ones, give you new ones, and there will be a difference. If you could just explain that for us so that the public knows what the actual net fiscal impact to the community or to the County is.

Mr. Gausepohl: Absolutely. Earlier this year, we brought sixty-seven (67) Conductive Electric Weapons (CEW) or Tasers at a cost of about one hundred twenty-seven thousand dollars (\$127,000). After that, we were looking at body cameras (body cam), which I think everybody agrees is a good project. We have gotten to a point where we feel comfortable with purchasing the body cameras. The brand that we wanted, we feel is the best, actually came out with a deal called the "Officers' Safety Program," where instead of the sixty-seven (67) Tasers, we get one hundred five (105) Tasers with holsters, plus we get the body cams with twelve (12) docking stations, and unlimited storage. Without their discount, it is a three hundred fifty-five thousand dollars (\$355,000) cost. With their discount, it is one thousand seventy-six thousand dollars (\$176,000). They are allowing us to send back the Tasers we have and give us credit for the one hundred twenty-seven thousand dollars (\$127,000). The net cost for this three hundred fifty-five thousand dollars (\$355,000) ticket is roughly fifty-two thousand dollars (\$52,000), which is not budgeted, and we need permission to expend out of our Asset Forfeiture Funds.

Council Chair Rapozo: Thank you very much. Thank you for that clarification. Do we have any questions? Councilmember Hooser.

Councilmember Hooser: Good morning.

Mr. Gausepohl: Good morning.

Councilmember Hooser: Just a couple of questions. The unlimited storage, is that forever or for a year?

Mr. Gausepohl: There is an ongoing cost, which we are going incur with any kind of electronic storage, and that is one hundred twenty-four thousand dollars (\$124,000) a year after that. We have the initial purchase and one (1) year storage, and then one hundred twenty-four thousand dollars (\$124,000) after. The one (1) good outcome out of my mistake was that it is a non-budgeted item. Therefore, we can apply for and get grants for the ongoing expenses and not be supplanting it all.

Councilmember Hooser: Okay.

Mr. Gausepohl: It was not planned, but it is true.

Councilmember Hooser: Great.

Mr. Gausepohl: We are anticipating moneys to be available for projects just like this.

Councilmember Hooser: I am happy to see the body cam project moving forward. When exactly would that start?

Mr. Gausepohl: We are very close to having a good policy in place. Officer Perreira is also here. Mike Contrades and the County Attorney just got back from the National Symposium in Las Vegas regarding body camera use and policies nationwide. My understanding is that our existing policy stacked up very well. We learned some things that we are going to incorporate. But these are from agencies that already have been using the cameras and we are just trying to glean as much knowledge we can and do it right.

Councilmember Hooser: This will be one hundred five (105) body cameras?

Mr. Gausepohl: Yes.

Councilmember Hooser: When do you expect all the officers to be using them on a regular basis?

Mr. Gausepohl: Well, we are going to have to make sure the policy is absolutely solid. I do not want to be in a rush and make a mistake. We want to make sure we are doing this correctly. Then there is also training that is involved. We want to make sure everybody is trained, aware of the policy, and just do this right. We have to be careful in moving forward with this.

Councilmember Hooser: So, within a year, do you think?

Mr. Gausepohl: Yes. I was going to say within a year or so.

Councilmember Hooser: Okay. As that policy is being developed or when it is developed, will you will be able to share that with the Council?

Mr. Gausepohl: Sure.

Councilmember Hooser: That policy, I would imagine, would instruct officers when the cameras come on, how to handle it, when it goes off, and that kind of thing.

Mr. Gausepohl: Right. What we do not want is anybody's privacy to be invaded. We are the Police Department and we want to protect people's privacy, not invade it. We have to be careful to draft a policy that reflects that.

Councilmember Hooser: Great. Thank you very much. Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you. The Tasers are replacements?

Mr. Gausepohl: Yes, sir.

Councilmember Kagawa: Is it operated better?

Mr. Gausepohl: Yes. Absolutely. We had the X26, which was analog and now we are updated to the X26P, which is a digital platform.

Councilmember Kagawa: What is the difference between analog and digital?

Mr. Gausepohl: It records things better and it is more stable. We are not going to have as much breakage. Also, this plan also covers warranties. I do not know if that was articulated or not. But at five (5) years, we have replacement for the Tasers.

Councilmember Kagawa: It sounds like a good warranty.

Mr. Gausepohl: Then at two and a half (2½) and five (5) years, we have replacements for cameras. We all know how technology progresses very quickly. At two and a half (2½) years, the camera might be that big instead of that big. So, it is all incorporated in this. We are not just paying for storage with one hundred twenty-five thousand dollars (\$125,000) a year. We are paying for upgrades and warranties as well.

Councilmember Kagawa: Second question. I do not know if it is a question that you normally answer or not, but I am going just ask it because we have some financial watchdogs in here and I think it is a question worth asking. We are spending fifty-one thousand six hundred eight dollars (\$51,608) from the Criminal Asset Forfeiture Fund?

Mr. Gausepohl: Yes, sir.

Councilmember Kagawa: What is the balance of that fund now? It carries forward, right?

Mr. Gausepohl: I believe so. I do not know what the entire balance is at.

Councilmember Kagawa: You do not know what the current balance of that is, approximate?

Mr. Gausepohl: No. I am sorry. I could get you that information though.

Councilmember Kagawa: Thank you. Thank you, Chair.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Chair. The last time we had this discussion on the cameras you were able to give us a pretty good description of function, when it turns on, how long it records for, and so forth. I just wanted to ask if these cameras that we are getting, are they an upgrade, are the features different, or are they the same as what we had originally talked about.

Mr. Gausepohl: They are exactly the same.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Any other questions? Councilmember Yukimura.

Councilmember Yukimura: Hi. Good morning.

Mr. Gausepohl: Good morning.

Councilmember Yukimura: In terms of ongoing expenses, you said that we will need one hundred twenty-four thousand dollars (\$124,000) per year for storage after this year?

Mr. Gausepohl: That is storage, warranty, and replacement. Not just storage, but it is also unlimited storage.

Councilmember Yukimura: Okay. For the year?

Mr. Gausepohl: Yes.

Councilmember Yukimura: For the year that you have paid for, and you said it will also cover replacement?

Mr. Gausepohl: Yes. The cameras will be replaced at two and a half (2½) and five (5) years, and the Taser devices will be at five (5) years.

Councilmember Yukimura: So, this one hundred twenty-four thousand dollars (\$124,000) is on a yearly basis for storage and it buys you continuous replacement every two and a half (2½) years for equipment?

Mr. Gausepohl: Two and a half (2½) for the cameras and five (5) for the Tasers, yes.

Councilmember Yukimura: I see, okay. If a camera is broken, is that replaced?

Mr. Gausepohl: Yes.

Councilmember Yukimura: It is?

Mr. Gausepohl: Yes.

Councilmember Yukimura: It is automatically replaced?

Mr. Gausepohl: They are under warranty. So, unless it is abused. I mean, if an officer that jumps in the ocean, it might not be covered. If it is a normal wear and tear and it breaks, yes, it should be covered. It is the best, most comprehensive, and cost-effective deal that we have been able to locate with the best product that we have been able to locate.

Councilmember Yukimura: I appreciate the initiative and the alertness to looking for this kind of discounted purchases. So, that is good. I am so glad you

mentioned that your commitment to putting in place the departmental policies before actually utilizing the equipment. I mentioned this to you earlier, but there was an article in The Garden Island about a jurisdiction where there were questions of use of police force and the tapes were not viewed. So, I presume that our policies will have a statement that says, "Whenever the question of police force arises, that these tapes will be looked at."

Mr. Gausepohl: Absolutely. That is the purpose of project.

Councilmember Yukimura: I know. It was quite shocking to think that a police department with this technology would not have a policy that addressed that. But I just wanted to make sure.

Mr. Gausepohl: Those are the type of pitfalls. I mean, that is a quite obvious one. But there are other more subtle ones that we want to avoid as well.

Councilmember Yukimura: Maybe you would. Is it your intention that all officers would wear this all the time?

Mr. Gausepohl: No. We cannot have all officers. We are going concentrate on is Patrol. There will be some other specialized areas that we might provide. But one hundred five (105), we have one hundred fifty-nine (159) sworn and two (2) appointed. That is a large amount of officers that we can outfit.

Councilmember Yukimura: Right. So, your policy is going to cover which part of the force uses it, when, et cetera?

Mr. Gausepohl: Yes.

Councilmember Yukimura: Okay.

Mr. Gausepohl: And when it is appropriate to turn it on and when it should be turned off.

Councilmember Yukimura: Okay. Are there maintenance requirements for this?

Mr. Gausepohl: That is inclusive in amount we are discussing.

Councilmember Yukimura: This company that is selling us this technology will be in charge of maintaining it, and that is included in the one hundred twenty-four thousand dollars (\$124,000)?

Mr. Gausepohl: Yes.

Councilmember Yukimura: Thank you very much.

Mr. Gausepohl: It is a great deal. I mean, we have really looked into this and for them to be able to offer this to us and give us credit is...and we need to act this fiscal year. It is important. Again, it is my fault. I am deeply sorry that I screwed that up.

Councilmember Yukimura: I mean, I think we appreciate the initiative to get this new technology, which we all see the benefits of at an affordable price as possible, and you are not asking for any General Fund moneys for this. This is your Assets Forfeiture Fund. So, you are not unbalancing the budget.

PAUL APPLGATE, Captain: That is correct.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: A follow-up on the Tasers. What did you refer to them as?

Mr. Gausepohl: They are called Conducive Electric Weapons, per the company.

Councilmember Hooser: I assume there is a policy on those, when they are supposed to be used, and when they are not used.

Mr. Gausepohl: Yes.

Mr. Applegate: Yes.

Councilmember Hooser: Do officers carry both a firearm and Taser on a regular basis?

Mr. Gausepohl: Yes.

Councilmember Hooser: Are you going to offer something else?

Mr. Applegate: No. I would say that the ones issued, we do not have enough for everybody. So, whoever is issued one, has it on them.

Councilmember Hooser: Okay. So, as they are going about their business on a regular basis, they will have a firearm and Taser, and then there is a policy on when the appropriate use of each of those, I suppose.

Mr. Gausepohl: Yes.

Mr. Applegate: Correct.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Any other questions? You are going to be getting more Tasers though, right, with this?

Mr. Gausepohl: Yes. We purchased sixty-seven (67), but we are going to have one hundred five (105) with this purchase.

Council Chair Rapozo: Right. So, they are going to take the sixty-seven (67) back and send back one hundred five (105). So, you will be able to equip more officers with the Tasers.

Mr. Gausepohl: Yes.

Mr. Applegate: Correct.

Council Chair Rapozo: It is a good deal.

Mr. Gausepohl: That is a great deal.

Mr. Applegate: It is a good deal.

Council Chair Rapozo: Any other questions? If not, thank you very much.

Mr. Gausepohl: Thank you.

Council Chair Rapozo: Hang tight in the audience because we may calling you up later.

Mr. Applegate: Thank you.

Mr. Gausepohl: Yes, sir.

Council Chair Rapozo: I am sorry. If we could have Mr. Sykos back up. Just start his time over. Thank you.

Mr. Sykos: Good morning, Council. For the record, Lonnie Sykos. First off, Assistant Chief? I want to thank the Assistant Chief for coming before the public and the Council and admitting to making a mistake and finding the good path to rectify the mistake. Congratulations for being honest. It is what we expect from our Police. For disclosure, my great uncle John Poole, rose from Patrol Officer to Police Chief of a small town in North Carolina. I am not unfamiliar with the challenges that our police department has. One of the questions that I have, and this is not implying improper behavior. But one of my questions is in our property seizure plan, do we seize property without the court's approval? You watch the media, there are many states on the mainland that have roadblocks all over the states on the highways and if you are unfortunate enough to be carrying a lot of cash, the police will take your money from you even though it is for first and last month's rent, to pay utility bills, and all of the legal reasons you would have to carry cash. They do not give it back until you prove it was not intended for a criminal activity, which is an impossibility to prove. I am simply asking the Council if you are aware of what the rules are which govern the seizure of private property by the police department? I am alleging no malfeasance or anything. I am just asking the question of what kind of controls do we have over property seizure, which is certainly appropriate in some circumstances? The other question I have is that these taped recordings, and I understand that the police department has operational and security issues, but as a principle, will these recordings be available to the public through say Freedom of Information Act requests? Aside from that, I commend them for doing a great job in getting the cameras and trying to get all of our Patrol Officers equipped with the Taser. Thank you.

Council Chair Rapozo: Thank you very much. Thank you, Mr. Sykos.

Mr. Sato: Next speaker is Felicia Cowden, followed by Matt Bernabe.

FELICIA COWDEN: Thank you. My name is Felicia Cowden. I support C 2015-178 for the purchase of the body cameras. I want to acknowledge with gratitude and appreciation to the police department for how much weight they carry on them lately. They must have twenty (20) to thirty (30) pounds worth of things on them in synthetic fabrics in the hot Hawai'i summer daytimes. I get that this is another piece of weight, and one that is really looking at their behavior. But I see it as a win-win for both the police and those that they engage. I think that what we see as that we will encounter better behavior on both the part of the person under question as well as the officer who is taking action. My predecessor here, Lonnie, brought up two (2) important things about the Tasers. Tasers are better than guns. I think that the cameras are going to help ensure more appropriate use of Tasers and asset forfeitures. So, both of the concerns that were brought up, I feel like these cameras help protect both the police and the people from experiencing that. I think that also when people have gone through trauma with the police department, your memory is not so good. So, it can also help people keep their memory clear of what did in fact happen. It will bring accountability afterwards. I do not see where we have a real loss. I think the one hundred twenty-four thousand dollars (\$124,000) a year is money well-spent for reduced trauma and better enforcement. I want to support Councilmember Yukimura's statement on ensuring that these videotapes are available to be viewed. If there is a person who has a concern about how they were treated, it certainly seems that they are worthy of viewing the videotape as well as the police department itself. It does not seem to me it should just be a matter of public record for anybody to view at any time if there is not a compelling reason that they would have an interest in it. In closing, I support this purchase. I appreciate that it was requested in May. Thank you.

Council Chair Rapozo:

Thank you very much.

Mr. Sato:

Our last registered speaker is Matt Bernabe.

Mr. Bernabe: How is everybody? Matt Bernabe, for the record. I would be a bad person if I argued against the cameras. So, I will tailor it a little different. The money we are talking about, the seizure money, I would like the police department to have told the amount total in that account because are they a municipal or non-profit because how much money are they supposed to have? Even non-profits can only have a certain amount of money available to them. Instead of body cameras, I would like, because I was just bragging about how lucky we are that our small-knit community does not polarize our police like the mainland does. I was just having this conversation at Keālia. I would like to see some of this money coming out of the seizure funds for cookouts so that they can meet the people, get out of their squad cars, and know everybody's names. That way we do not need cameras as much, right? Cameras can go both ways. They can protect the citizen and the police officer or they can incriminate either or. That goes both ways. They can incriminate the cop. We see right now, cameras are on these police officers and they are still rolling around like ninjas on the ground with little eighteen (18) year old girls. It is not really stopping cops all over the Nation and I do not think our police is polarized that the majority of cases need a camera. Now, why are they not budgeting this into their regular budget is another question for me? I do not mind that they went and looked for the fifty-one thousand dollars (\$51,000) deal on all of this. That is great, and admitted his mistake. I love it. That is great. But why are they not working this in their regular budget? Homeland Security grants, I hope no more Homeland Security grants come to our police department because they have hidden agendas for federalizing our police department. Like I said, I do not want to sound like I am against the cameras. I am. But I am also for doing a few other things like slow down

with the helicopters over my house looking for green harvest, right? I mean, you folks want to talk about trauma. I will be watching television (TV) with my little daughter back there and the helicopter it is literally...I am worried if they are going to crash because as we have seen in the media, even marine helicopters go down in Hawai'i. I do not really like the choppers, no matter what their reason is for my neighbor's plants or whatever, being over my house. They fly all the time. I obviously do not have anything because they are not coming to my house. My point being is that let us find some other ways to interact with the community so we do not have to be so polarized that we look like Fox News at 6:00 p.m., alright? I will come back.

Council Chair Rapozo: Anyone else wishing to testify? Mr. Mickens.

GLENN MICKENS: Thank you, Mel. For the record, Glenn Mickens. I just wanted to thank our police department for all they do. They need these cameras and I think it is one of the preventative things that we can do is have the police for their benefit and for the public's benefit. I think it is a great idea. I think there are so many things that are happening. They are so controversial. With the camera, the cameras will not lie. You have got it there on tape. Anyway, I just want to say I really appreciate what our police do when they go out and risk their lives by pulling over a car, they do not know if it is some maniac in the car that has a hidden gun or something. But I do want to appreciate that. Thank you.

Council Chair Rapozo: Thank you, Mr. Mickens. Mr. Taylor.

KEN TAYLOR: Chair and members of Council, my name is Ken Taylor. I just want to go on record as supporting the request for this Officer Safety package. I think these people put themselves on the line every day for all of our safety and I think it is really important that we also take care of them. I hope you all see fit to approve this request. Thank you.

Council Chair Rapozo: Anyone else? Did you want to come back up, Mr. Bernabe, for a second time?

Mr. Bernabe: Matt Bernabe, for the record. Like I was saying, I am not against these cameras at all. I really appreciate them working the numbers to try to get it lower and a better deal for us, one hundred percent (100%). What I am trying to say though, is on the bigger picture of this funding that they are pulling from, what can we use that for that can augment having to buy one hundred five (105) cameras? To me, even though it is cameras, it is a military solution to a public relations issue. That is what I see this as. Like I said, if all cameras deterred bad police behavior, which I am not accusing KPD of. We have our history. But to me, it is relatively good. I do not feel afraid of my police like I did in Las Vegas seeing "Homeland Security" on the yellow shirts on the bicycles. I feel pretty good. I do not think we are at the stage where we need one hundred five (105) cameras. I am probably the only one who does not say it that it is a great thing. But I just think there are other mechanisms to get public involvement with our police force. That is all I want to say.

Councilmember Yukimura: Question.

Mr. Bernabe: Sure.

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: Matt, do not you think if there is an incident that might put into question police conduct, and if there is a camera that showed that the police acted professionally, that would help relations?

Mr. Bernabe: Do you know what? I would agree with that in theory. But when we just watched an officer do a ninja roll on camera while he got his knees on a little eighteen (18) year old girl's back, which I am ashamed that a police officer cannot handle teenagers. I am one-legged and I handle my daughter's friends better than that. They are probably wilder than the middle class kids that were in that film. What I am saying is if the dogma was true that it was preventing the cops from going a certain distance and it is preventing the public from going a certain distance, I would buy it. But a lot of cases it cuts both ways. Sometimes the cop has to retire like that incident, and sometimes that cop is vindicated. I am saying that is a bad thing. What I am saying is that the Garden Island, Kaua'i County, is not at had a level of polarization yet that we could not implement some of that funding for some outreach programs so that we do not have to have chest protectors. Why should we have chest protectors in Kaua'i? When was the last time an officer was shot in chest on Kaua'i? I am just saying. It is a little extreme for our community.

Councilmember Yukimura: Okay. I do not think anybody disagrees with your point that there could be a lot more building relationship activities.

Mr. Bernabe: Okay. Well, let me sum it up then. I think this money could be better spent at this time. When we progress to a point where we really have to consider cameras, then I will be one hundred percent (100%). I just feel a few barbecues and outreach programs, knocking on the door. "Hello, I am Sergeant so and so. This is my beat. I am glad to meet you."

Councilmember Yukimura: Thank you.

Mr. Bernabe: "Here is my number and Facebook." We become friends. That way when I see him, I can help them. I will videotape for them.

Councilmember Yukimura: Thank you, Matt.

Council Chair Rapozo: Matt, that is Paul and that is Rob. That is Matt. Perfect. We are starting. Thank you, Matt. Anyone else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Council Chair, I think it is appropriate to ask what the balance is in the Asset Forfeiture Fund.

Council Chair Rapozo: We have it.

Councilmember Yukimura: Oh, okay. Maybe you can share that.

Councilmember Kagawa: Thank you, Councilmember Yukimura. The balance that I have for 2014-2015 was ninety-seven thousand three hundred dollars (\$97,300) and for 2015-2016, it is four hundred eighty-four thousand three hundred twenty-six dollars (\$484,326).

Councilmember Yukimura: What is it?

Councilmember Kagawa: Four hundred eighty-four thousand dollars (\$484,000).

Councilmember Yukimura: Okay. From that, we are taking fifty-two thousand dollars (\$52,000)?

Councilmember Kagawa: Yes.

Councilmember Yukimura: Okay. Thank you very much.

Councilmember Kagawa: Thank you. Thank you, Chair.

Council Chair Rapozo: Any further discussion? Councilmember Hooser.

Councilmember Hooser: I want to commend the Kaua'i Police Department for going down this path and I think it really shows some forward thinking by a relatively small community like ours to move with the body cameras and also with the electronic Tasers. I think the more we can utilize non-lethal force is better and to see that every officer is going to be provided with this or certainly the Patrol Officers, I think, is a very good thing. I commend you on that. I think Mr. Bernabe actually raises some good points about more community outreach and more community involvement between the Kaua'i Police Department and the community. It would be a good thing. I am hopeful that can also go down that path in the future. My understanding of the news reports is that the young woman was fifteen (15) years old. Also, I want to clarify that the video that was shown was a video by a bystander. It was not a video being worn by the police officer in charge. I just wanted to point that out for the record. The main thing I wanted to do is just thank the Police Department. I am obviously going to be supporting this measure. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you. I want to also just share that I am supportive of these cameras. I also agree. We should be looking at ways to create further outreach. But I do not think it is one or the other. It is both. I think the way this came about, at least as I recall, was it was presented as somewhat of a pilot project. I think that what I would like to see in the future is some feedback on how it is working and how we can make sure it is working to our benefit. That is why I thought it was appropriate for Asset Forfeiture funding at the time. I am looking forward to see how this assists our community. Thank you.

Council Chair Rapozo: Thank you. Any other discussion?
Councilmember Yukimura.

Councilmember Yukimura: I also want to say thank you to the team that has proposed this on behalf of the police department. I think there has been good research, negotiations, and planning, that is getting the County the best "bang for the buck" on a very important tool and equipment to both protect the public and the police officers. Thank you very much.

Council Chair Rapozo: Thank you. Any other discussion? Likewise, thank you folks for the research. We had a lot of discussion on the body cameras the last time you were here. I do not remember the unlimited storage being an option. I thought we had to pay for storage. I like hearing this, that it is unlimited and yes, we are paying for the cost or the maintenance. That is fine. At least we are not going to have to worry about somebody's upload not going through because the cloud is full. I am really happy about that. Currently, our Tasers already have cameras. So, every engagement, and if I am wrong, you can say "no." But I believe that the Taser currently, every time it is engaged, the camera does engage. There is a video recording of the Tasers. That is already in play and that is a good thing. Obviously, Mr. Bernabe does bring up some good points. But I disagree with his comments about the chest protector because I do not want to be the first cop had a gets shot in the chest without a protector. Although we have the Garden Island, we have a lot of transients that come here that are from those crazy towns. God forbid. The law of average is not on our side. It tells us that the longer we go without one, we are going to get one. We just have to make sure our officers are protected as best as they can. I am not going to try to answer Mr. Sykos' legal questions because I am not a lawyer. But I will say that we watch cops on TV and the cops they make the traffic stop, they ransack the cars. They take what they want. The Hawai'i Constitution is very prohibitive of that. It is obviously very protective of rights and search and seizures. It is the whole process. Like I said, I will not get into it Mr. Sykos. We can share the policy with you. But it has to be proven that whatever was confiscated was a direct benefit of the crime. It is not just drugs. It is any crime. Thank God for that law because it allows us to replenish the Asset Forfeiture money. I always say it is nice to use bad people's money to buy things for the County. I just wanted to touch on that. Thank you again, for your diligence because we are getting a steal. As I look over the numbers, we are just getting a really good deal, a long range. You look at the five (5) year overview. It is just a remarkable deal. Thank you, and I am glad we will get more Tasers out there to protect our officers.

The motion to approve C 2015-178 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2015-179 Communication (06/03/2015) from the Boards & Commissions Administrator, requesting Council approval to receive and expend funding in the amount of \$2,000 from the Hawai'i State Commission on the Status of Women, to support the County of Kaua'i Committee on the Status of Women and their ongoing advocacy and work towards equality for women and girls by acting as a catalyst for positive change through advocacy, education, collaboration, and program development. The moneys will also be utilized for their Annual community events, which include September Women's Health Fair (a partnership with Life's Choices Kaua'i), October Breast Cancer Awareness, sponsorship of Kaua'i Drug Court Graduations, 2016 Career Day event, March Women's History Month, April Equal Pay Day, Walk a Mile in Her Shoes (sponsored by the YWCA), as well as other activities including travel to the State Legislature for testimony, all in support of Hawai'i Revised Statutes (HRS) Section 367-3(1)-(7): Councilmember Kagawa moved to approve C 2015-179, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Any discussion? Any questions? If we do not have questions, she does not need to come up here. Hang on. I do not know if there will be any questions. I read the communication and the sheets, and I am totally satisfied with that. Councilmember Hooser.

There being no objections, the rules were suspended.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Since she has taken the time to come down, maybe you wanted to say a few words about the proposal.

LISA ELLEN SMITH, Ex-officio, Hawai'i State Commission on the Status of Women Representative: Chair and Councilmembers, thank you for entertaining this idea. No, I do not really have any words. I have written them all.

Council Chair Rapozo: If you could just state your name for the captioner. I am sorry.

Ms. Smith: Yes, sir. My name is Lisa Ellen Smith. I am from Līhu'e.

Council Chair Rapozo: Thank you very much. Any questions?
Councilmember Yukimura.

Councilmember Yukimura: Not a question. I want to thank you and the Commission for the work for identifying this source of money. I know that it was painful to have your budget cut. For you all to take initiative and seek out some funding so that you can continue your work was very admirable. Thank you.

Ms. Smith: Thank you.

Council Chair Rapozo: Any other questions? If not, thank you very much. Anyone wishing to testify?

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: No further discussion.

The motion to approve C 2015-179 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

Mr. Sato: On the top of page 4.

C 2015-180 Communication (06/04/2015) from Councilmember Chock, requesting agenda time to discuss the formation of a sub-committee to research and analyze the costs and benefits of a County Manager-Council form of government and to compare it with the costs and benefits of a Mayor-Council form of government; Councilmember Kagawa moved to receive C 2015-180 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: At this time, we are going to take the caption break because we are getting close to a caption break. Let us take a ten (10) minute caption break and then we can continue right through to lunch without any interruptions. Thank you. Ten (10) minute caption break.

There being no objections, the Council recessed at 10:48 a.m.

The meeting was called back to order at 10:59 a.m., and proceeded as follows:

(Councilmember Kagawa and Councilmember Yukimura were noted as not present.)

Council Chair Rapozo: We are at C 2015-180 regarding the County Manager-Council form of government. Do we want to have some discussion before we call for public testimony? Why do we not start?

Councilmember Chock: Yes, I will just give a little bit of background. The County Manager system has been a topic of discussion for many years, actually. I know that as a County, we have looked at it briefly, and not really in detail. This for me, became more of an interest this past year when we had our first collaborative goal-setting meeting with the Mayor. I thought it was really beneficial that we would be able to sit together, Council and the Mayor together to really define what the vision is and what the goals that we are willing to move forward on.

(Councilmember Kagawa was noted as present.)

Councilmember Chock: While it was just one (1) meeting, I think that it would be a good move in the right direction, which brought up this question of what are other systems we might be able to look forward to that might be beneficial to one, save us some income, some money since that is number one on our list, but also provide another avenue for accountability. We have a Mayoral system right now, and so this communication is really to bring up a discussion amongst members if there is an interest to look into it.

(Councilmember Yukimura was noted as present.)

Councilmember Chock: There are so many questions. We are talking about a system change here. There are so many questions that need to be answered that we would look towards perhaps enlisting a Resolution and forming a sub-committee to answer some of those questions. With that, I will also open it up, Chair.

Council Chair Rapozo: Thank you, Councilmember Chock. I appreciate you introducing this. I think it has been a long issue. I think in 2008-2009 it went before the Charter Review Commission. There were some concerns about legality and there were concerns about the pros and cons of this type of system. I think the discussion is due. I think it is time to start talking about this discussion again. My intent is to form a special sub-committee that will do the due diligence on this matter and have the community outreach so that we can have the community's involvement and their opinions, and then to report back to the full Council in no more than six (6) months from now with some possible commendations whether or not the timing is right. When you look at the current term, we have a sitting Mayor whose term limits ends in three (3) years. So, should this go on the ballot at the next election, that it would not impact any sitting Mayor. The timing would be right if, in fact, that is what the people wanted to do. There are a lot of opinions on this matter. There are a lot of opinions. But I think what has not happened is the information and education being conveyed to the public on the pros and cons. I think as we speak, the last I read, depending on what source, I think NACo's source is about forty-four percent (44%) the International Association of County Managers or the National Association of County Managers cite forty-nine percent (49%) of small Counties, medium Counties, and large Counties that have County Manager systems. It is not uncommon to find it. It works well in some cases and it does not in others. My hope

is that the committee will be able to take a look at all of these forms, all of the different jurisdictions, what are the benefits, what are the downfalls, and come back with a recommendation to the full Council, like I said, within the next six (6) months. So, that is the hope. Any other discussion? Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. I will be supporting any movement to study this further to see what it would look like and to show our people of Kaua'i what it would look like, and maybe they could get involved. Primarily, the County Manager argument, I have heard from three (3) people, from Glenn, Ken, and Mr. Walter Lewis. On numerous occasions they have been printing in it the paper and whatnot about how that could fix it. While I think a drastic change is maybe what we need, I think it takes a lot of due diligence before we reach that point. I am certainly willing to do that. But I will just point to a few examples, and I will just point to our University of Hawai'i (UH) system, how we always get optimistic when we hear about the new President coming and how it is going to change with all of their success on the mainland and how they are going to come and everything is get better and how it has not actually. We look at Evan Dobell. He came here with all of these accolades and what happened? Down. Then we hired Virginia Hinshaw. We thought she was going to save UH. What happened? Down. Then Ben Jay. We thought he would improve the Athletic Department from Ohio State. Down. I believe there is no magic pill out in the mainland, one (1) person is going to come and fix what we have. But certainly a system, this is more like a system change. It may take the politics out of decisions being made and I think that is what Glenn, Walter, and Ken have been talking about. Just a system change to take the politics out and perhaps we will lead to a more efficient government. But certainly, at this point, like I said, I saw one (1) E-mail where it said the County of Wisconsin adopted that and they became successful. But if I recall right, a few years ago, Wisconsin was the worst State. They were laying off teachers and closing fire stations. Certainly pointing to a State that has failed and saying that the County is successful, I think you kind of have to scratch your head on that one. Anyway, those are my comments at this point. I do always look for, if we can improve, certainly, let us spend the time. My recommendation is that we all be involved, like a workshop. But if the members decide that they want to go with just a few people at the outset and then report back to the Council as a whole, certainly, I think we will have the final say as to whether we want to put this on the ballot or we will recommend that it goes on the ballot. Thank you, Chair.

Council Chair Rapozo: Yes. The final decision will be made by the full Council and nothing prohibits the committee from holding workshops for the other Councilmembers. I think it is the most expedient way to do the due diligence. Again, this is just fact-finding. It is a fact-finding process that I think a three (3) member committee would be best way to move forward. Just as an article that just came out, it was shared with me. This was from San Jose Mercury News. The average compensation for a County Manager or City Manager today is about three hundred thousand dollars (\$300,000). One of the tasks that the committee will be looking at is what will this cost. That is why my recommendation for the committee will obviously be the Budget & Finance Chair, Economic Development & Intergovernmental Relations Chair, as well as Councilmember Chock who is introducing the measure because, I think, all of those bases need to be covered, and that way we can make a keen decision. I think Mr. Mickens, Mr. Taylor, and Mr. Lewis, and we have received a lot of E-mails as well supporting a County Manager system because, I think, people are frustrated with what is happening here. I think that is what is driving this train, is the fact that things just are not getting done to the satisfaction of the constituents, and they believe that if we had a County

Manager system, things might be different. They may be right and they may not. I am not sure, and that is the purpose of the committee to go research these jurisdictions that have systems like that or there are different forms of a County Manager system. It is going to definitely be a working committee. I think some of the concerns of the public are valid ones. I just got an E-mail yesterday from Mr. Kimo Rosen, who has been waiting for somebody to clean the bushes at the sidewalk on Kawaihau Road at Kūhiō Junction for well over a month. In fact, I believe almost six (6) weeks. It is a safety issue because it is causing a hazard for pedestrians walking. I bring that up only because I just got that E-mail yesterday. He is frustrated. He is extremely frustrated, and the question is had we had a County Manager system, would it be any different? That is the task of the committee that they need to determine. It is frustrating. It is frustrating for us too because we cannot direct the Administration to do anything. We can ask. But like I told the Administration, if it is not done by this afternoon, I am going to go take care of it by tomorrow morning because I think that is a reasonable request and six (6) weeks is an unreasonable response. That is what is driving this, is the frustration from the community that things are not being done and they believe there is a better way. So, our job is to do the due diligence. That is the hope. Any other discussion before I call for public testimony? Councilmember Yukimura.

Councilmember Yukimura: Yes. I think that this is a worthy question and discussion to have. Well, I would like to see the sub-committee actually create the alternative because, I think, until you do that, you cannot make the comparisons. If you compare the County Manager's system against the strong Mayor system or our existing system in the abstract, you can go on forever and ever and not really come to any workable conclusion. What I am saying is, the alternative of a County Manager system has to be created in detail so that we know how it is going to work and what we are comparing, otherwise you are comparing one piece of one form of a County Manager system with another part of a County Manager system. Let me try to explain. Right now, we have at least four (4) or five (5) Department Heads who are part of the Mayor's cabinet who are not appointed by the Mayor or accountable directly to the Mayor. That is the Planning Director, the Police Chief, the Fire Chief, the Personnel Director or Human Resources Director, and the Water Chief, which is a little different. But even before, and I do not know if there are more, these are major parts of the County. I do not think you can find any other corporation, public or private, other than the other Counties in the State where the Human Resources Director is not directly accountable to the Mayor. If you have a Managing Director form of government, I would guess that in order to make it really work like a Managing Director County does, you would have to have these Directors be hired and fired by the Managing Director because otherwise, you will not have a Managing Director. If the Managing Director does not have the direct accountability, they are not going to be able to manage like a Managing Director. So, that is one of the things that has to be part of the scenario. Then, as I understand it, the Mayor, if there is a Mayor, becomes part of the County Council. I like that because then we are one (1) body instead of two (2) separate bodies. If so, you want an uneven number. So, there would be logically six (6) Councilmembers and a Mayor. The Mayor under the County Manager system, is selected by the Council rather than by the vote in the popular vote or the election. So, you would have to think through these details. I think Councilmember Kagawa said, we want to know what it is going to look like. How do you make the comparison until you know what it is going to look like?

These are the kinds of issues in detail that have to be addressed and not only whether you want it, but whether State law allows it and what changes in State law do you need if you want to be able to have a Managing Director County? It is not just

an abstract discussion about the pros and cons. It is like creating the Managing Director system that you really want that is going to be workable in this County and then how do you do it? Well, first of all, you would create that...

Council Chair Rapozo: Councilmember Yukimura, hang on.

Councilmember Yukimura: Yes.

Council Chair Rapozo: That is what the sub-committee will do.

Councilmember Yukimura: Well, I am concerned about what the sub-committee is going to be mandated to do, and that is what I want to put on the table here.

Council Chair Rapozo: At the next Council Meeting, we are going to have the Resolution forming the committee, and that is where you can share your concerns. If you have any specific requests that you want, just make sure you get that to staff because we are not discussing the sub-committee today. Today is just the County Manager system.

Councilmember Yukimura: I think I am discussing the County Manager system versus...

Council Chair Rapozo: What you are doing is trying to convince or trying to state what you believe the task force needs to do. The task force has not been formed yet.

Councilmember Yukimura: Are we not discussing the advisability of the formation? This agenda time to discuss the formation of a sub-committee to research and analyze the costs and benefits of a County Manager-Council form of government.

Council Chair Rapozo: Right.

Councilmember Yukimura: This is what we are discussing today.

Council Chair Rapozo: Well, I mean, I have not even started the clock. This is discussion. I do not want to have to do that. I just want to make sure we keep it tight. Next Council Meeting, we will have the discussions at the sub-committee and what the sub-committee is expected to do. We have seven (7) different ideas of what should be on that committee. If we do that today, we will be here all day.

Councilmember Yukimura: I am just trying to help...

Council Chair Rapozo: I guess my concern, Councilmember, is you are assuming certain things. We do not even now that. They are going to be analyzing and addressing, like I said in my opening comments, their task will be to see all the different types of the County Manager systems. They are going to have to do all of that. The reason I am doing it as a sub-committee or recommending it, is because this is exactly what I am afraid of. If we do this as a Council, we are going sit here for hours and hours and hours looking at every single hypothetical where the committee can do the due diligence and come back to the Council for discussion.

Councilmember Yukimura: My concern is that the committee will go through all of these hypotheticals and come up with an abstract recommendation without really looking at...because I want this to be something that moves us to the real question of do we want it or not, and what is we want?

Council Chair Rapozo: JoAnn...

Councilmember Yukimura: I am bringing these details...

Council Chair Rapozo: Without trying to be offensive, it is not about what you want. It is the committee is going to do their work and they are going to come back to this body.

Councilmember Yukimura: Of course it is not...

Council Chair Rapozo: But that is what you are trying to do, JoAnn.

Councilmember Yukimura: No. I am trying to share my opinions and add to the discussion. I believe that is what we are trying to do around this table.

Council Chair Rapozo: Okay.

Councilmember Chock: If I may respond too?

Council Chair Rapozo: Please.

Councilmember Chock: Your point is well-taken. I think moving forward, we definitely want the same outcome. We want to provide something that is going to realistically be able to answer a lot of questions that you are bringing up. How long it takes is another question. But I do not think we are here today, at least at this time, to answer those things until we get clearer.

Councilmember Yukimura: I am not expecting answers.

Councilmember Chock: I know. What I am saying is we hear you.

Councilmember Yukimura: Thank you. What I am thinking is that rather than answers, we are putting forth the questions that need to be addressed if we are going to do our due diligence to do this. I am just raising some of the details that have to be looked at in order to fully vet this question. Thank you.

Council Chair Rapozo: Any other discussion before I call for the public testimony? Councilmember Hooser.

Councilmember Hooser: I think this is a good thing. I applaud Councilmember Chock for initiating the discussion. I actually a year ago or so asked staff to start working on something and quickly bogged down in details of it. I put it on the side. I am glad to see Councilmember Chock embracing the challenge that this is. I am assuming he will be chairing the three (3) person committee, is that correct?

Council Chair Rapozo: Yes, that is going to be my proposal.

Councilmember Hooser: Because he is initiating it that would be my assumption. I agree with Councilmember Yukimura, that there are many forms and many implications to consider during this whole conversation, and because there will be four (4) of us not on the committee, the only time that we have to legally offer our *mana'o* on this is during these kinds of meetings. Since we only meet once a week, I am certainly okay spending the time it needs to share our thoughts on this so when the committee does work, they at least have the benefit of our thoughts and suggestions as they move forward. My other thought was that I am not sure if six (6) months is enough time. But I think it is good to be aggressive on that and shoot for that. But it is a complicated issue and again, I applaud Councilmember Chock and the committee for moving forward on it. Thank you.

Council Chair Rapozo: Any other discussion?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Is there anyone registered to speak?

Mr. Sato: Our first registered speaker is Glenn Mickens, followed by Lonnie Sykos.

Mr. Mickens: Good morning again, Councilmembers. For the record, Glenn Mickens. Let me just say before I start my testimony, we in the public that are trying to get this issue pushed, have no dog in this fight other than the betterment of Kaua'i. I am never going to run for anything. I do not think Ken is. Mr. Lewis will never run for anything. We are at the forefront of this thing. So, we have no other issue in this thing other than trying to better the *modus operandi* of this County of ours, okay? You have a copy of my testing. Let me read it for the viewing public, please. First, I want to thank Councilmember Chock and Chair Rapozo for putting this issue on the ballot. We have been waiting a long time. Forming a sub-committee to research and analyze the cost and benefits of a County Manager-Council form of government and to compare it with costs and benefits of a Mayor-Council form of government is only the first step towards putting major efficiencies in our Kaua'i government, but a major step in making it happen. If this Council Administration listening to the dissatisfaction of its citizens, over the multitude of problems both past and present that are not being addressed, they will embrace a system where a professional is hired to solve problem and make decisions based on our past experience. Should the Chief Executive Officer (CEO) of a multi-million dollar company, Kaua'i, be hired because of his or her popularity or because of the experience or expertise he/she brings to the table? I think that is a no-brainer. With a still elected Mayor sitting as one of the seven (7) Councilmembers, which JoAnn just brought up, is not easy to see how decision making would be simplified. No finger-pointing about whose problem it is by giving it to an experienced manager. A manager would be fired in a heartbeat if he allowed a gym roof like the Kilauea Gym leaking for twenty (20) year with no resolution to it. I have not heard any resolution to it. The amount of money we have spent on that is obnoxious, or lack of a site or drug facility on Kaua'i for over ten (10) years, plus traffic, our roads, and solid waste, all growing worse under our present system. One of the best parts about using this system is that we do not have to reinvent the wheel as it has been used successfully around the world. You have a template out there already to go ahead and look at what is being done and how it is being done. Thousands of municipalities around the world are using it. You do not have to reinvent what is going on. It is there for you to take a look at. Any unbiased person who factually compares our present system to this form of government will be more than willing to least give it a

try. Absolutely nothing to lose and a tremendous amount to gain. Mel, I have testimony of Walter Lewis here. Do you want me to come back after the next three (3) minutes?

Councilmember Kagawa: Glenn, one (1) question, and this is a hypothetical. Let me get your answer as to how you feel. You are saying like the Kilauea Gym debacle.

Mr. Mickens: Yes.

Councilmember Kagawa: The County Manager would override Doug Haigh's decision that going in the direction that we did to fix the roof? The County Manager would need to have that engineering expertise and he will override Doug's decision to fix the roof the way they did?

Mr. Mickens: Well, the County Manager obviously, he is going to have people with the expertise to do this. But he is going to get the job done. It is not going to sit there for twenty (20) years. A door on that gym up there, it had to be sealed. The water got in and warped the floor. What kind of a thing is that to take to fix? We have good carpenters on the island. They could have fixed it in a heartbeat.

Councilmember Kagawa: I understand. But I am just saying, under that decision to follow Doug Haigh's recommendation to fix the roof the way they did on three (3) occasions or whatever they did.

Mr. Mickens: Yes.

Councilmember Kagawa: The Mayor did not, I think, use political influence. He just listened to somebody who had more expertise than him in that area and followed that recommendation. Obviously, that recommendation was not good.

Mr. Mickens: Right.

Councilmember Kagawa: Because it kept leaking.

Mr. Mickens: Right.

Councilmember Kagawa: I am just wondering, how would the County Manager be different from the Mayor in that Kilauea Gym roofing?

Mr. Mickens: Well, I am sure you folks even asked the question. You asked it to Lenny Rapozo when he was here. Did you consult with a local roofer? He said, "No." Well, why not? I am sure a County Manager would not sit there and say, "Go ahead and ask the roofer." He is not going to hire a consultant to tell him how to do his job.

Councilmember Kagawa: Thank you.

Mr. Mickens: You are not going to pay one hundred fifty thousand dollars (\$150,000) to a consultant. For what?

Councilmember Kagawa: Thank you. I guess you answered my question. You are saying that the County Manager would directly manage it in a better fashion.

Mr. Mickens: Exactly.

Councilmember Kagawa: Thank you. Thank you, Chair.

Council Chair Rapozo: Thank you. Next speaker.

Mr. Sato: Next speaker is Lonnie Sykos, followed by Ken Taylor.

Mr. Sykos: For the record, Lonnie Sykos. I am fully in support of creating a sub-committee. I am not fully in support right now of changing our system to create a manager, but I am fully in support of radically changing our current system. Councilmember Yukimura says we have a strong Mayor. In Political Science 101 class our strong Mayor is called a "patronage system" and therein lies the problem that we have. Some of our managers, as Councilmember Yukimura has pointed out at least twice this year, have engaged in making decisions that have cost us millions of dollars. The problem that we have is not that our employees make errors because that is reality. The problem is, it does not matter how egregious of an error that you make, you are never held accountable for the errors. If Mr. Haigh was the one that said, "Oh, fix the roof this way" and the roof did not get fixed, why did Mr. Haigh not ever get a pay raise? Why does he remain, not that I am picking on him in this? This is hypothetical. I have nothing against Mr. Haigh. I like him and I am not promoting any action to be taken, but to address Ross. If they make the decision to fix the roof and the roof does not get fixed, maybe the wrong person is in the job making the decisions, okay? There is no accountability today and that is what we are hoping for from the manager who does not have to be worried about losing people's votes because they hold other people accountable. Secondly, whether we have a manager or a strong Mayor, some Department Heads are never going to be under the control of a politician. The Police Chief cannot be ordered by a politician to do anything, legally. That violates Federal and State Constitutions as well as the County Charter. The Police Chief has to be independent. The Fire Chief. Can the Mayor tell the Fire Chief "provide more service for this area and less service for that area?" Is that constitutionally legal? No. The Mayor cannot have authority directly over the Fire Chief. Planning. The same thing. In the Planning Department, politicians cannot determine the decisions of the Planning Department. They are supposed to be the result of due process, not political expediency. What we are hoping for is an examination of how it is that our County system fails and to address the failures.

Council Chair Rapozo: I have to stop you there. Your time is up. We have a question. Go ahead, Councilmember Kagawa.

Councilmember Kagawa: Lonnie, one of the problems, I guess, with the direct accountability of the managers is that they are civil servants, like Mr. Haigh, and not to place any blame. Glenn brought up the Kīlauea Gym as an example.

Mr. Sykos: Right. Correct.

Councilmember Kagawa: I just brought up that Doug was building and he had consultants, I think, assist him on at least two (2) of the times that they reroofed.

Mr. Sykos: Correct.

Councilmember Kagawa: The consultants are partly to blame, I guess. How do we hold civil servants accountable if we have that County Manager? Do you know what I am saying? It is not like an appointed position where he can suspend his pay raise or fire him or what have you. When they are a civil servant making the call, I do not see the difference between the Mayor trying to, I guess, reprimand or whatever the manager, rather than the County Manager? I do not know if you have a response.

Mr. Sykos: Well, my response is this; the people that the Mayor appoints or hires are people that the Mayor has the authority to hold accountable for doing their job and if they do not do their job correctly, they get retrained hopefully, or demoted, fired, reassigned, or whatever the appropriate response is. The problem is for say the Police Chief. We are unclear still. We are in court over who has the authority over the Police Chief. It is 2015. We wrote the Charter was written in 1968. How come we got from 1968 to 2015 without knowing who is in control of the Police Department? My response is, if you hire a professional manager, that is their job to provide those answers. Our Mayor is only required to be what, twenty-six (26) years old or something? Thirty (30) years old and a resident of Kaua'i.

Council Chair Rapozo: Lonnie, the question was about the civil servants.

Mr. Sykos: My response is what it was.

Council Chair Rapozo: One (1) more.

Councilmember Yukimura: Lonnie, if we have a Manager form of government, that means that the manager is not elected and therefore is not a politician.

Mr. Sykos: Correct.

Councilmember Yukimura: Therefore, I believe, in many County Manager situations, the Planning Director, the Fire Chief, and the Police Chief are all accountable to the Managing Director.

Mr. Sykos: Correct.

Councilmember Yukimura: Because they are...

Mr. Sykos: Not a politician.

Councilmember Yukimura: ...theoretically not accountable to a politician that is subject to a lot of political dynamics, but are accountable to a professional manager. That is one of the aspects of a County Manager form of government that, I think, is attractive to people on this island who are frustrated with the politics.

Mr. Sykos: Correct.

Councilmember Yukimura: Okay.

Mr. Sykos: Yes. Our Commissions could act differently and exercise different authority than they do. But lacking that, the manager is the simplest way to address all of these issues.

Councilmember Yukimura: Yes, you are right. It is not to say there might be other functions for a Police Commission, for example.

Mr. Sykos: Correct.

Councilmember Yukimura: Which is the...

Mr. Sykos: This is not eliminating a...

Councilmember Yukimura: Civil lay people buffer between the paramilitary organization and the community.

Mr. Sykos: Yes.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Thank you for raising these very good points, Lonnie. You mentioned the word "patronage."

Mr. Sykos: Yes.

Councilmember Hooser: I do not believe everybody understands what "patronage" means. If you could explain what patronage is in a political/government sense?

Mr. Sykos: In a political/government sense. In theory, all government activities are supposed to be meritocracies, that it does not matter who you are, who your background is, your politics, your religion, or whatever. It does not matter. The only thing that matters is the quality of your performance. So, that is meritocracy. As you move away from performance of that independent evaluation of the performance, that means someone who is not potentially influenced by politics, right? As you move away from having that meritocracy, by definition, you are entering into a circumstance in which who the person is starts to take on importance versus the job that they did. So, that is the difference. Patronage is the ability to award people with benefit from the government who have not demonstrated that they have earned it through merit.

Councilmember Hooser: Patronage would be the ability to hire people without going through a merit process?

Mr. Sykos: Correct.

Councilmember Hooser: Just like the Department Heads, for example?

Mr. Sykos: Correct.

Councilmember Hooser: It would be patronage types of jobs.

Mr. Sykos: Yes.

Councilmember Hooser: It is in their interest that the person who is giving them the job, is re-elected so they can keep their job?

Mr. Sykos: Yes. For example....

Council Chair Rapozo: I think you answered the question. Did he answer your question? I think he made it very clear. He will be able to come back and do three (3) minutes. Again, the question and answer is not to allow speakers to have more time to share their opinions. It is to answer questions of Councilmembers, and I think you answered the question as far as the patronage system. It goes away from the merit. It comes to basically, a payback. You support me, I take care of you. That is the patronage system.

Mr. Sykos: Yes.

Councilmember Hooser: Thank you, Chair for further expanding on that.

Mr. Sykos: Thank you, Mel.

Council Chair Rapozo: If you have another question, that is fine.

Councilmember Hooser: I think it is an element that has not been discussed and that needed to be on the table front and center, that with the County Manager position, would those employees then work to help make sure that the County Manager got re-elected? The answer is "no because he or she is not elected."

Mr. Sykos: Correct.

Councilmember Hooser: Okay.

Mr. Sykos: I mean, the answer is "no" because he is not elected.

Councilmember Hooser: Thank you very much.

Council Chair Rapozo: Thank you. Next speaker.

Mr. Sato: Next speaker is Ken Taylor, followed by Felicia Cowden.

Mr. Taylor: Chair, members of the Council, my name is Ken Taylor. One of the issues that came up earlier is does this solve all of our problems in making a change to a management style of government? No, it does not. But it makes it better. We can always strive to make things better. Government at its best is not great. I support forming a committee to look into the County management form of government. I think there should be a timeline of three (3) months with progress reports monthly to this body. At the end of the three (3)

months, a decision should be made to move forward and place it on the ballot or drop it. If we are moving forward, we will never plenty of time to educate the public while continuing to finish getting the Charter and ballot language in order. I have a question for each of you. Each of you now have a one hundred eighty million dollars (\$180,000,000) financial portfolio in need of a financial manager to administer the funds, and you have two (2) applicants for the position. The first applicant is a citizen, a nice person, over thirty (30) years of age, and has been a resident of the County for over three (3) years. The second applicant, a U.S. Citizen, a professional manager, with a masters or Ph.D. Degree in Financial Management, and ten (10) years experience with a record you can check. It is your money. Which one would you hire? Why not let the voters of this County make the same choice? It is their money. I think it is really important that we move forward with taking a look at this. One thing that is very different in a management form of government is that first of all, there is no over there. The buck stops here. It will be important for all of you to hire the best possible manager we can have because you will look good. He, in turn, will perform and he will require the people working under him to perform. If he fails, the community is going to come back to you folks and say, "Hey, something has to change" and then you have the power to change it. Right now, you have no power to change anything.

Council Chair Rapozo: Okay. Thank you.

Mr. Taylor: Thank you.

Mr. Sato: Next speaker is Felicia Cowden, followed by
Matt Bernabe.

Ms. Cowden: For the record, my name is Felicia Cowden. I am glad that this discussion is on the table. I support that. I do want to acknowledge I do not understand the County management system well enough to say I support having a County Manager or not. These are just comments. I have several concerns and I have a suggestion. In it, I also really like what Councilmember Yukimura said in that looking comparatively, not just at the County Manager position, but how we could possibly make some other alternative adaptations. My concern is, like when I hear what Ken Taylor just spoke of with criteria for managing my money, I appreciate that. In managing a County, it is not just managing my money, it is not just the one hundred eighty million dollars (\$180,000,000). It is the seventy million (70,000,000) people that live here and the twenty million (20,000,000) visitors. So, there is a human element not....what did I say? Oh my gosh. Seventy thousand (70,000) and the twenty thousand (20,000) visitors. It is not just money. I think that looking at these different elements in our existing County are very important, too. What I would put out on the table there is that maybe skillset criteria for all elected positions are very important. Rather than say having this degree or that degree because very often we are going pull somebody who is completely independent from our community. I think that is my biggest concern. If we brought somebody over here that had perfect things from Minneapolis, with all due regard to Minneapolis, they might not really understand a lot of the subtleties that are very critical here. The Managing Director position that is under the Mayor is almost like having a Managing Director. I might not have the name right. But like Gary Heu. He had really great business experience. When I look at Jay Furfaro, he has really very robust business management skills. I think when we look at what kind of business person we have to support the Mayor, that is very important. When I think about a County Council really having a lot to do with how they pick the Mayor as a Mayor, well, we are still then at the whim of our layperson Council. I think that we are losing a layer of the

balance of power. I am outlining some concerns I have, outlining the suggestion that we really should have skill criteria set for all of these positions, and I would love to be at that Committee Meeting. I do not know if that is going to be open to the public. But I would really like to learn more about it and I hope it is open to the public so people can participate.

Council Chair Rapozo: Thank you. They will be public meetings. Do you have a question?

Councilmember Yukimura: Do you not see a difference between the present system and County Manager system that the Manager may not do professionally in this system what he or she thinks should be done because there is a political Mayor calling the shots?

Ms. Cowden: I do see that difference. But when we look at the Managing Director's position, it might be that position could be changed a bit on how it is lined up. I started at the very beginning saying there are subtleties that I am owning that I do not get and I need to learn more and I need to know more before I feel like I can make a qualitative decision even at the ballot box, right?

Councilmember Yukimura: Yes. I think that is the intention behind this.

Ms. Cowden: But if there are just three (3) people who decide it, I would like to be able to learn more. It is not clear to me that it is a change that we need to make yet because I just do not understand enough.

Councilmember Yukimura: Right. Thank you.

Council Chair Rapozo: Next speaker.

Mr. Sato: Next speaker is Matt Bernabe, followed by Doug Smith.

Mr. Bernabe: How is it? Matt Bernabe, for the record. I support moving forward to Council on this issue, however, I have strong reservations. Two (2) of the main issues that I have is I am assuming it is an appointed position. If there is some criteria, like Councilmember Kagawa was pointing out, that if you are going to micromanage everything, this manager has got to be an engineer, a farmer, and all of these other things. If that is the argument, I do not see why somebody like me, who does not have a managerial business background, but I have been a chef. I have been in the Army. I definitely can micromanage groups. I coached. You can get it in all forms, somebody who can run the show, and make good commonsense logic. But when you go and put criteria before you can get in the job, a person like me or somebody who raised ten (10) kids and put them off to college, some home mom who decides she wants to get involved, she is out of the loop. She cannot be involved. That is one (1) thing. The other thing is that it still leaves us up to corruption, in my opinion, even more so because if somebody is business oriented, they are not going to think about the tangibles like Felicia just pointed out. They are only thinking about the bottom line, bottom line, and bottom line. They are not thinking about the human aspect of what it takes to run a County. I have strong reservations. I would like to move forward. Here is what I will say as far as a solution. Like what you folks are all talking about, let us create the language that makes it mandatory for the Department Heads to hold the criteria in their field, the pedigree for those specifics, and let us get away from the patronage aspect of this.

Let us create the language that the Mayor cannot put his sister, cousin, or brother who only worked over here. They do not have the degree. I do not know what the case is. I am making it up. The other thing is if we do move forward with a City Manager or a County Manager, they need to at least live here for five (5) years. You cannot have some transplant. I am sorry. I will say it. You cannot have some transplant coming over here and dictating what is going on here because do you know what? There are a lot of people who voted for our last Mayor. They are not going to be happy. I do not want to be the person pointing this out. But you do not see anybody in here that is going for manager, to me, that graduated from Kapa'a High School or Kaua'i High School. I am the only one who probably graduated on this island and I am skeptical of a City Manager or County Manager. I will come back.

Council Chair Rapozo:

Next speaker.

Mr. Sato:

Our last registered speaker is Doug Smith.

DOUG SMITH: Doug Smith. What is the effect on the homeless people and the poor forced to live in their vehicles? That is all I have to say. Make your judgment according to that and according to our loving creator, who you are all answerable to, as well as myself.

Council Chair Rapozo:

Thank you.

Mr. Sato:

We are back to Mr. Mickens.

Council Chair Rapozo:
testimony?

Mr. Mickens, you are going to read Mr. Lewis'

Mr. Mickens: Yes. For the record, Glenn Mickens. Yes. Thank you, Mel. Walter cannot be here. He is take caring of his wife. We feel very fortunate to have Walter as a pro bono retired attorney for thirty-seven (37) years and be able to give us advice on the legality of some of these things. Here is Walter's testimony. Congratulations to the Council for bringing to its threshold discussion of a governmental system for our island that could profoundly benefit our people. A Council Manager type of system is well-known and frequently used throughout America. About one-third (1/3) of all Americans live in communities having this system. Approximately one-half (½) (fifty percent (50%) of all cities have a population more than two thousand five hundred (2,500) uses this system. The heart of the system is the appointment by the Council of a manager who serves at the pleasure of the Council to have responsibility for the direction of operations of the community. This manager has been educated and trained for performance of such duties. About two-thirds (2/3) of all managers serving elsewhere have received Master Degrees, usually in Public Administration, and have been engaged for some number of years in public service. These qualifications are vital to bring a professional quality to the direction of our affairs. The structure of a Council Manager system is quite flexible and is easily adaptable to meet local requirements. For example, it frequently provides for inclusion of a Mayor on the Council who is popularly elected and who provides ceremonial and other services. Remember, he is going to be sitting here with one of you. So, he has one-seventh (1/7) of the vote. So, it is not like he is completely just a ceremonial type of person. The step proposed today is the selection of a committee of Councilmembers to study the cost and benefits and features of a Council Manager system that might be proposed for establishment of on Kaua'i. I urge the Council to take this important action. For the Council Manager system to be adopted here, it will require the Council to agree upon the detailed terms to be included, for

the proposal to be included in next year's ballot, and be favorably approved by our voters. In my view, the many sound features of this system will enable our County to enjoy a more cost-effective and better-run government. Regards, Walter Lewis.

It is pretty clear that if the Mayor is sitting here with you folks, the finger-pointing stops. He cannot say, "I did not get it from over there." I am part of the system. I am part of the vote right now. I think this is a huge favorable factor, having this accountability given to a manager that obviously has to have very stringent requirements to be able to get this job. Hopefully, it would be some manager that has done this system before someplace else. That is all.

Council Chair Rapozo: Okay, Glenn. Thank you. Any questions for him?

Mr. Mickens: Thank you, Mel.

Council Chair Rapozo: Thank you very much. Lonnie. Second time.

Mr. Sykos: For the record, Lonnie Sykos. First, I would like to thank Matt back there for giving us an even better understanding of how deeply entrenched patronage is in which it should matter whether or not somebody graduated from high school on Kaua'i as to whether they should be a manager here in this County. If you are of the mindset that you should be a graduate from Kaua'i, fine. I do not. Of the next agenda items is releasing the Executive Sessions about funding the helicopter by charging people for being rescued. Is the Council aware that the Council has heard hours and hours and hours of testimony back in 2007 and 2008 regarding the fact that the Fire Chief, his two (2) assistants, the Finance Director, the Procurement Officers, and others all appeared multiple times before you people, this Council, and said that the County had in place a cost control plan to control the expense of the helicopter in place before we bought it, because they did and it is public record. If you want to know how it is that a manager might save us from ourselves, is the entire discussion about the expense of the helicopter. Had we had a professional manager and had the manager done his job, he would have not simply requested, as the Council and other members of the public did, to actually see a copy of the plan. He would have forced the plan to be released and we know from public testimony, that even though they told us that they had a plan, they do not have one. They never had one in writing. Whatever was in their head is irrelevant and does not exist in space and time. This one issue, the helicopter, would not be the issue today if politics had not been part of the process. Secondly, hiring the pilot. We purchased the helicopter and hired the pilot violating our own purchasing principles legally albeit. But there was no need to do it and basically what we want is a manager, a professional with training and experience, to protect us from our own folly. Thank you.

Council Chair Rapozo: Thank you.

Mr. Taylor: Chair and members of the Council, Ken Taylor. A couple of things I just wanted to touch base on so that do not misunderstand. The Mayor's position does not disappear. It just gets relocated. Under a management style of government, the Mayor is still elected at-large, becomes the Chair of the Council, and the seven (7) of you make the decisions of how the County is going to move forward in the future, what the priorities are, and you set the policies which govern the workload of the manager. He is there to carry-out your policies and your directions, and to do it in most efficient manner. No manager with

any credibility only deals with the money. I mean, the money is the beginning part of the County's operations. The intricacies of each Department are very important in how that money filters down and gets used in those Departments is very important. I hear week after week, you folks sit here talking to County Department Heads. When it is all over, it is well, we have no control over what they do. You control the purse strings. But when you release the money, you have no control over where the money gets spent. Under a management style of government, that changes. Going back to the Mayor's situation, if one (1) of you and I are running for Mayor, what is our platform? What do we tell the community? Our platform is what our vision of the future for the community is. The community decides then on electing one (1) of us to sit there, which would then be the guiding light for the next four (4) years as to what the Council does. I do not believe that we can change all of the issues in the Charter that need to be done in one (1) swoop. We need to go after it in several applications. I would like to see a four (4) year term for all Councilmembers staggered so that we have a 3:4 vote. One (1) year the Mayor and three (3) of you are elected and the next, maybe two (2) of you, and next year four (4) of you are elected. So, that makes continuity much better. I came from a community where we had a County Manager for twenty-six (26) years. That is good continuity. Thank you.

Council Chair Rapozo: Thank you, Ken. Felicia, did you want to come up a second time?

Ms. Cowden: I think I made my point.

Council Chair Rapozo: Okay. Matt.

Mr. Bernabe: Matt Bernabe, for the record. I would first like to start by saying that I did not say you had to be a graduate of Kapa'a High School or one of the schools. I said, "Live in the County for five (5) years before you run." That was my statement. I have written right here. If we start treating the government like a corporation, then I will not be able to come and testify over here. No sense. We are going to eliminate testimony. The other thing, why run a Mayor? We pay the Mayor more than the Chair. Let us just remember that the Mayor and just have seven (7) Councilmembers. It is cheaper. The Mayor makes more than you, I am assuming, Mr. Rapozo.

Council Chair Rapozo: Everybody makes more than I do.

Mr. Bernabe: Okay, so there you go. Let us just keep the Chair and forget the Mayor. I just want to reiterate that this is democracy to me. I feel like I am just stepping into this arena. You folks only seen me recently. What if I decide I want to run for Mayor? I am just saying. I am putting this as a personal story. You folks creating this right before I am eligible to run for Mayor. I mean, I could run already, but I am just saying. My eligibility means that I am now ready to psychologically, and I decide I have something add to this community. I have skills to run and hold those Department Heads to task and what not. But I do not have this college pedigree, so you are out. That to me, is a knife in democracy. That is not how it was designed. In California, they did this conversion in many Counties. Some of them have failed right out, but many of them are run by the corporate entities that surround them that live there. I am just putting out there that, yes, let us move forward with the committee on this. I probably will not support whatever it comes up with. I mean, unless there is some way to allow me, the regular Joe, to ascend to the position...I served in the military and this is not democratic. I do not care what the gentlemen behind you say. To me, everybody should be able to run for that

position. Do you know what? A lot of people voted the person in. He may have made mistakes, but he is still representing a large portion of people who won at the last ballot, right? I am just saying the numbers are saying, the Mayor is in. The people that voted for him are not in here supporting this. There is a lot of room in this conversion process to be hijacked by the wrong people. I just think we should double down on the language that make accountability of the Heads of these Departments and you folks vet them right here. Do they not all come through here? Let us create the language that makes them more responsible for their actions. That is all I am saying. I think it is the easier way to go. I think it is a lot easier way to go by just creating the language for that, then recreating the whole system, to me.

Council Chair Rapozo: Thank you very much.

Councilmember Yukimura: Question.

Council Chair Rapozo: Oh, question.

Councilmember Yukimura: Matt, the thing about requiring a certain amount of both experience and education is if you do not have someone who knows how to deal with budgets or understands complex systems, the level and cost of mistake made at the CEO level is horrendous.

Mr. Bernabe: I agree. However, I would like to point out that experience can come in other venues. You can be a successful mom on a shoestring budget, send your kids off to college, and still know how to budget better than some of the people that are running the County and some of these Department Heads.

Councilmember Yukimura: You are right.

Mr. Bernabe: I could be a chef. I could be a farmer.

Councilmember Yukimura: But you could also...

Mr. Bernabe: We bring things.

Councilmember Yukimura: But you could also have someone elected who cannot handle those problems.

Mr. Bernabe: Are you saying that the manager is going to be an elected position or an appointed position?

Councilmember Yukimura: No, no. We are just talking about what the qualifications need to be for such a position.

Mr. Bernabe: Well, I understand.

Councilmember Yukimura: And what the risks are.

Mr. Bernabe: But the risks come in both a manager and Mayor because if you have somebody so qualified in business and all they are thinking about is the bottom line, he is an easier sellout to me, then somebody who just makes a mistake because he did not know.

Councilmember Yukimura: That is the question of accountabilities. Who accountability to whom? The Managing Director has to be accountable to an elected body.

Mr. Bernabe: Well, I agree. But I am still stating and standby, that the rewriting of the language to make that occur is easier than recreating the whole system.

Councilmember Yukimura: That is possible.

Mr. Bernabe: I think that is the way to go on this issue.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Thank you. I am going to go through and you can come back. Mr. Smith. Felicia.

Ms. Cowden: Felicia Cowden. I just wanted to clarify something that may have gotten missed. When I spoke about skillset criteria, I specifically chose those words as opposed to "degrees." Degree is a value, and people can develop quality skillsets as measured by many different ways that they could have worked and they are and to manage a big budget. I have managed a small business worth four million dollars (\$4,000,000) to five million dollars (\$5,000,000). That is not the same thing as the two hundred million dollars (\$200,000,000) budget. We would be looking at volume and elements like that of what goes in there. But that is just why I had said "skillset criteria" because it is different than necessarily degrees or paperwork, though those are valuable, too. Thank you.

Council Chair Rapozo: Thank you for that clarification. Anyone else wishing to testify? Mr. TenBruggencate.

JAN TENBRUGGENCATE: Thank you, Chair. Jan TenBruggencate. I am the current Chairman of the County Charter Review Commission. I just wanted to report to the Council that this issue has been taken up by two (2) separate Charter Review Commissions, both of which submitted reports. I was part of the latest of those in 2010, driven largely by the concerns of the same group of people who have pushed it on your agenda. A number of issues were reviewed in both of those cases. There are boxes and boxes of information about this, which will come into your possession if you choose to do this. I think the seminal issue that both Charter Commission efforts ran into was that as I understand it, State law does not envision a County Manager form of government. The State law, between twenty (20) and fifty (50) references in State law to interactions with the Mayor, and many of them envision a Mayor who is both an elected Mayor and a Head of the administrative branch of government. The State statute also called for the County to have an Executive, an administrative and legislative form of government, which would not be the case in this. At some point, one of our conclusions was that you would have to make significant changes in State law before you could even consider going down this path. But I did want to, because I have been up to my hips in County Charter issues for the last few years and to some degree for the last forty (40) years, make one (1) correction, which I think JoAnn recognizes. But Mr. Sykos suggested that we have a strong Mayor form of government. We have the weakest Mayor form of government in the State of Hawai'i with significant amounts of the executive power in the hands of citizen commissions in a way that is not seen in the other Counties. My lights are changing. I am done. I am happy to answer any questions.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: I think you said it, but I am just wanting to get that confirmed. You are saying that if we want to have a County Manager form of government, the first change that we need is a change in the statute in the State law and enabling legislation?

Mr. TenBruggencate: I am not an attorney. I cannot reference that. But the two (2) different Charter Commissions that looked at this issue, received from two (2) different County Attorneys, who at the time were serving under two (2) different Mayors because it happened at different times. In both cases, those County Attorneys said that the State statute preempts the County's ability to move to the classic County Manager form of government. But what is also clear is there are many permutations of municipal governments. One of the things that was suggested to us, you could simply make the job of the Managing Director of the County have the same qualifications as what folks are talking about as the County Manager. In that situation, you could make a fairly simple change to the Charter and presumably accomplish many of the things that you are looking for. On the other hand, one (1) of the things that has come up repeatedly is that if you want to create more accountability, one way is to change this system by shifting away from a Mayor-Council form of government. But another way is to give the elected Mayor the accountability that the Mayor does not now have, over the significant amount of County government that is run by citizen commissions rather than by elected officials.

Council Chair Rapozo: I have a question real quick, and it is a follow-up. I have got to say this though, the issue for me on the Council, we talked about the gym and the issues that we have with parks. Those Department Heads come under direct control of the Mayor.

Mr. TenBruggencate:

Yes.

Council Chair Rapozo: The other question I have is, and do not take this in the wrong way, Jan, because I respect you and I appreciate your work on the Commission. But is it not true that the two (2) Charter Commissions were appointed by the Mayor?

Mr. TenBruggencate:

And confirmed by the Council.

Council Chair Rapozo:

Yes, but they were appointed by the Mayor.

Mr. TenBruggencate:

Yes.

Council Chair Rapozo:

And the County Attorneys that opined.

Mr. TenBruggencate:

By different Mayors over time.

Council Chair Rapozo:
about the person, for me.

It does not matter. I am just saying it is not

Mr. TenBruggencate:

Right.

Council Chair Rapozo: It is not about Bernard or Bryan or Kaipo or whoever else. It is not about that. Take the personalities out of it. The fact remains that you are talking about a system that prohibit a Mayor from running in future.

Mr. TenBruggencate: Yes.

Council Chair Rapozo: Why would he or she support this movement? So, that is the question I have. You are having a Mayor appointed Charter Review Commission and a Mayor appointed County Attorney. I mean, did the Charter Review Commission ever think about getting an opinion from the Attorney General because it is involving the State statute and not a County rule because what was passed out to us, Councilmember Hooser at the time, he was in the Senate requested this. Believe me, we have a completely different opinion from the Attorney General. I would say if we are going to look at, and that is what the purpose of the committee is, to put the politics and rubbish aside and go down the due diligence effort that we can actually look at. Take out the personalities. That is so difficult.

Mr. TenBruggencate: If I could respond, briefly. I think it is absolutely clear and it was clear in our assessment of what is happening around the Country, is that there are communities that are excellently run with a Mayor-Council form of government very much like the one we have and there are ones that are very well-run as Ken suggests, that are run by a County Manager form of government. There are also plenty of examples of very poorly run cities or bankrupt cities, run by both forms of government. I do not think the form of government is the panacea that some people think it is.

Council Chair Rapozo: I agree with you. I mean, if it was a ballot question, if I had to vote today, I would not vote to change the system that we have. I would not. I think if you just Google "City Manager or County Managers arrested," and look at how many are caught for embezzling government money or misappropriating government money. Like I told Glenn, Ken, and Walter, our game the game of the County strong Mayor system, is not broken. Do not hate the game because it can work. It may not be managed the way we all want it to be, but at the end of the day, it is who you put in the positions to run the game is what is important.

Mr. TenBruggencate: I think that if you are going to do this, what you may end up with is a suggestion for a way to amend our current form of government without getting into trouble with State statute and end up with something that works a little better than what we have now. At least one hopes that you would end up with something like that.

Council Chair Rapozo: Any more questions? Thank you, Jan.
Anyone else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. It is a very interesting topic that I am sure we will have more due diligence on. I totally agree with you as to the success of this County Manager system will depend on who this Council and Mayor should it be adopted, chooses. It is like a football coach. If pick Fred von Appen or if you pick Nick Savon, you get two (2) totally different outcomes. If pick

Mary Rita Cooke (M.R.C.) Greenwood or Virginia Hinshaw or Evan Dobelle with all of their accolades in education and experience, and I think you picked the wrong one. The bottom line is who do we choose and how successful will that person be? That will bear either success or failure for the County Manager system. I say it can work. I believe it can work. But when we have the applicants at the salary level that we end up doing should we do it, will we have the right applicant that can win and not pick a loser because if we pick a loser, I do not care what system we pick, it is not going to work, and not to say that this system is working. But is the County Manager system going to be better? It all depends who the coach is. That is all I have to say on this. Thank you, Chair.

Council Chair Rapozo:

Thank you. Councilmember Hooser.

Councilmember Hooser: In response to Mr. TenBruggencate's comments on the legality of it, I just want to read briefly what the Attorney General Mark Bennett approved to the request I made when I was in the Senate February 12, 2010. It says, "Section 46-1.5 of the Hawai'i Revised Statutes provide that each County shall have power to frame and adopt a Charter for its own self-government. It shall establish the County Executive Administrative and legislative structure, an organization including, but not limited to, the method of appointment or election of officials, their duties and responsibilities and compensations and the terms of their office." Clearly, that State law says we have a lot of control. But then it goes on to say "Section 2 of Article 8 has been interpreted by the Hawai'i Supreme Court as allowing a County to enact any Charter provision even if it conflicts with statutory provisions." So, even if it conflicts, the Supreme Court says "The County can enact Charter provision if County is able to demonstrate first, that the provision relates to the County's structure and organization...

(Councilmember Kagawa was noted as not present.)

Councilmember Hooser: ...and second, that it is a matter of local as opposed to statewide concern." This, to me, says that we do have the power to do this. It has to be done right, of course, in terms of structure. This is not a definitive opinion, I do not believe. But it certainly it is good evidence for me to justify moving forward with this. Are we in the comment phase right now? Is that where we are at?

Council Chair Rapozo:

Yes.

Councilmember Hooser: Okay. For me, this is about efficiency in government and it is about politics in government. A County Manager form does not by in and of itself, increase efficiency or get politics out of it. But I think it has tremendous potential to do just that. People will ask me sometimes in terms of politics about the Mayor's race and why does this person or that person run? I explained to them that the Mayor during the second term, through patronage, and it is not a bad thing. It is just the way things work, has a tremendous political machine behind them. The Mayor directly appoints easily twenty (20) people, if not fifty (50) or one hundred (100) people, at the end of the day. It is in all of those people's best interest that the Mayor get re-elected four (4) years later. So, you have all of these families. You have a built-in political machine. Again, it is not necessarily good or bad, but the political influence is huge. Mr. Smith asked how this would affect the homeless. Well, the way it is supposed to affect the homeless, is it is supposed to help those who have the least amount of political influence, which would be the homeless, which would be those with the least voice in our community, the low income people, people who live in communities that do not have the influence, and we all know about

those communities. In theory, and I think much in practice from what I have read, that the County Manager system does in fact, diminish the political influence and amount of patronage. For the record, County Councilmembers, all of us, certainly myself, I know that, have zero (0) patronage and control no direct jobs whatsoever. When we run, we do not have a patronage machine behind us. Administrators do. I think it is very promising that we are moving forward on this. Again, I think that we keep our eye on the prize, which is how do we increase efficiency, how to make government run better, how do we diminish the political influence on the process. In terms of the qualifications, I just want to point out that there are degrees at major universities on County management and how to run County governments. There are people out there who are worked in other Counties and other Cities who have dealt with Public Works issues, sewers, water treatment plants, and dealt with politic bodies who have experience and track records on this that would be considered if this moved forward for these types of positions. I applaud the Council, Councilmember Chock, the community for moving keeping this discussion alive and moving forward. Thank you.

Council Chair Rapozo: Thank you, Councilmember Hooser. Any other discussion? Councilmember Kaneshiro.

Councilmember Kaneshiro: As we go through this, I get a little excited and I am glad you brought my name up as being part of the Council because I asked to do it. Is it cost-effective or not for our County to change to this? I can tell you when I first got in, I think I got a letters from Glenn folks about a City Manager. I think a lot of people do not have enough information to even make a decision on what they want. I think this is a very good opportunity for everybody. For me, I see this sub-committee as being able to get the information on both sides of the table and presenting it. People are able to make up their own decision. It is not what I want. It is not what anybody else wants. It is, here is the information, these are the pros and conversation of both, and this is what we are presenting. This is what we are coming up with. I think right now, we do not know what that information is because I really have not had much information about a City Manager type system. To what Councilmember Yukimura was saying about how this sub-committee is working, I have all kinds of notes I put down as far as things we need to look at. Efficiency and productivity. Which one is better? City Manager, Mayor, separation of powers. I have neutrality of a City Manager versus a Mayor. Also, Council responsibilities. With a City Manager, our Council responsibilities are going to change. We are the ones that hire the County Manager. To say that there is no politics in it, you could say there might be politics because we are the ones that hires the County Manger. Also, how does it affect State law, which Jan brought up, County laws and Charter changes? All of these things that is going to need to take place in order to change the system is what I want to know. What are the pros and cons, what are the benefits of doing it, and what we have to do it get there?

I think one of the main things that I want to task Glenn's folks with is I hear a lot about let us focus on a City Manager. But I want to see what your vision is. I am asking for help. If you folks can provide more information on the details of what exactly do you see as a City Manager because I looked it up. There are thousands of Counties, but of course, all of the Counties are different. I know what I read some, it said the Council gets to elect who the Department Heads are. But I am not sure if that is the framework you folks want to work with. I mean, if you folks can come up with an agreement on it because again, we can probably spend hours and hours on this is by saying, "What if we change this, what if we tweak this, what if we compare these?" I would really like information from the public on what exactly is it that we

are looking at as far as a City Manager system? What are the criteria? What are the duties and responsibilities? What are the changes in Council? I think that would really help gear us towards the comparison of pros and cons. I am not saying it has to be exact. But you can say, "Either Council can hire the Heads or they cannot" and those are the options that we would look at. If we could get a little more direction on it because for us to go through thousands of different City Manager systems, I think, we would be spinning our wheels forever, we would have thousands of options, and we would have a hard time really focusing in on what we really want here on Kaua'i. Again, it is interesting. It is exciting for me because I get to learn more about what a City Manager does. I get to learn probably more about the duties the Mayor and how our government is operating. I really do look forward to it. Again, any help we can get as far as a framework on exactly what a City Manager system on Kaua'i would look like, I think, it would be greatly appreciated because I think that is where we could get stuck on the details forever. It will not do anybody any justice for us to just start guessing on we think this or that and then we will go on forever trying to figure out what we are looking at. We know what the Mayor system looks like. We have what the Mayor system looks like. I am just asking for help on the framework of the City Manager system looks like. Thanks.

Council Chair Rapozo:

Thank you. Councilmember Kuali'i.

Councilmember Kuali'i: I will not repeat. I will just say "ditto" to everything that Councilmember Kaneshiro just said. I want to thank you, Chair. I am honored to serve on the sub-committee. I did live and work for ten (10) years in the City of West Hollywood, which had a City Manager system. So, I am familiar firsthand, but I think my work on the committee will be more about compiling and sifting through the information. I am interested to hear from folks like Mr. TenBruggencate more and perhaps look at, maybe not all of it, everything that is in the boxes. I do not know how much there are. But to get the sense of what else might be the challenges and the things that we have to look at besides the State law and looking forward to the work and working with the community. Thank you.

Council Chair Rapozo:
Chock.

Any other discussion? Councilmember

Councilmember Chock: Thank you, Chair. I really appreciate the opportunity to have this discussion. For me, that is what I want to keep the focus on, is continuing to move this discussion forward in answering some questions because I think we all agree in this room, that there are things that we can do better and this is the catalyst for us to have this discussion. For me, I mean, we may find there are other ways to accomplish what we want. But this is one (1) avenue and we should look down this avenue as well. Just in the discussion, what came to me is that there are some key questions that we probably want to focus on. The first is what would the County Manager system look like in detail that would work best on this island, on Kaua'i? Then, the pros and cons question with the two (2) systems that are before us and how they compare. Given whatever we can find in the sub-committee, whether it be the County Manager system or our current system, how will we continue to commit to accomplishing the outcomes that we are seeking to change within the system? Again, thank you for the opportunity to continue this. There are so many questions. Questions about the legality of it and cost questions. I appreciate some of the concerns that came up in terms of criteria for manager selection as well as the human aspect, which I think, has been coming up time and time today. I look forward to diving deep into this. We will have something to report back soon, I hope. Thank you, Chair.

Council Chair Rapozo:

Thank you. Councilmember Yukimura.

Councilmember Yukimura: Yes. I think this conversation today has been valuable and important. The king of Bhutan put forth this philosophy of gross national happiness. Actually, when I hear Glenn and Ken talking when they talk about wanting the best for the island, that is kind of what we are looking for. There were four (4) pillars behind this philosophy of gross national happiness. It was enlightened economic development, preservation and perpetuation of culture, protection of the environment, and the fourth one, which most people forget about is governance; how a community makes decisions about the first three (3). I think that is what we are talking about. We are talking about governance. What is the best way and the best system for making decisions on behalf of this island with all of the pooled resources, and how do we address the community's problems? This is a really important question. I think the journey in asking the questions and exploring the potential answers can be very useful. I am grateful to Councilmember Chock for initiating the issue; for the Chair, for putting it on the agenda; and for Glenn, Walter, and Ken for continuing to press us to look at the options. I think some of the questions that we have to ask are what the accountabilities are, who is responsible, what are the checks and balances against abuse of power, and how do you minimize politics in hiring of a County Manager because this is a group of people choosing a high-level manager. That is what the Council does when we choose the County Clerk and the County Auditor. The recent hirings, I believe, or appointments have been good and have followed a good process. But I have been on the Council where the County Clerk has been chosen primarily by politics and have been kept in place by serving the majority and catering to the majority that keeps him or her in place. It does not always work to the best interest of the County and the people of the County. The devil is in details and if we are going to change the system, we need to really look at things very carefully. It is not just the system that determines whether or not things work, but it is the system that can either encourage good governance or not. That is why this question is very important.

(Councilmember Kagawa was noted as present.)

Council Chair Rapozo: Thank you, JoAnn and thank you everyone. I cannot reiterate enough that the Council never heard this issue on the floor. We never had the opportunity. I mean, the two (2) times it surfaced, it went through again, the Charter Review Commission, who is appointed by the Mayor, and they were advised by the County Attorney that was appointed by the Mayor. So, I do not consider that a really open dialogue. I can tell you in my own personal experiences, and I cannot remember what year it was, if it was 2009. I was on the Council. Maybe before then. Maybe it was the first time this surfaced. I, along with many Administration personnel, went out aggressively opposing the effort saying it was no good, that we did not want this County Manager system because there had been some bad cases on the mainland involving County Managers. I did not think that was the problem. I did not think that the structure was the problem at the time. I still do not. I think as Councilmember Yukimura talked about, I think if the Mayor used the current process to select hopefully an incoming Auditor and the process we used to select our County Clerk, I think a lot of problems would be alleviated. I think if we put the most qualified people in the Directors positions, I think we would solve a lot of problems. It is not just the sitting Mayor. It is all of the Mayors. It is not just Kaua'i, it is all over the Country. It is not so much the structure of government. It is how we apply the structure and how we put people in positions where they need to be making tough decisions.

I have to thank former Senator Hooser. I think that title remains. Back in 2010, at the time Representative Mina Morita was requested to do an opinion and she said she was not even going to address it because the State law was explicit enough about the Counties. Now, this does not say what she meant, if we could or we could not. I have to believe that she was explicit enough that we could. But I think as Councilmember Hooser read earlier, it is very clear that the Supreme Court has clearly stated, and this is great for the committee members to understand, to understand, that the Charter trumps any statute if it relates to the structure of the County's government. I do not want to hear the argument about it is illegal because the Supreme Court has already ruled, and unless we want to appeal the Hawai'i State Supreme Court, that is the fact. That is case law. As we move forward, if the committee wants to validate that or verify it, that is fine. But to simply say that we cannot do it because of what the statute says, that is not accurate. The Supreme Court has already ruled. In fact, that ruling was in 1978, prior to the two (2) Salary Commission visits of this issue and County Attorneys on two (2) Salary Commissions did not recognize that Supreme Court decision. It is a new day. Again, this is really about fact-finding and data-gathering. The committee members, whatever position they have in their head at the time, needs to put that aside and move forward with the sincere desire to get the information and make some informative recommendations to the Council. Now, this will include numerous meetings in the community where I encourage the communities to get involved. But do not just come and say, "Because the County Manager works." If you are coming to the table, as Councilmember Kaneshiro said, he wants to hear from you. He want to know what aspects of the system that you are familiar with worked wherever you are talking about because, I think, we can all agree on one (1) thing, West Hollywood, Santa Monica, Santa Clara, or wherever you folks are coming from, it is not Kaua'i. We have some issues that are unique to Kaua'i that are not necessarily applicable or would benefit from a system that is being used on the mainland. I think Mr. Smith brings up the homeless. We have a different situation here and we need to address all of those. I look forward to the next meeting when we have the discussion on the actual formation of the committee and looking forward to some great dialogue. Yes?

Councilmember Yukimura: I just want to say in terms of the timeframe, I am looking at Ken Taylor's thing about three (3) months. I think you are going to need six (6) months at least, especially if you want to get a lot of input from the community. But once you set up or envision the system of the County Manager that you are going to compare and then if we decide that it is a desirable one, we will need to hire an attorney or somebody to develop all of the actual wording changes to the Charter and also then look at the statutory changes that may be, if not required, at least desirable, to make the system work. I just want to project that is going to be part of the work that needs to be done.

Council Chair Rapozo: Yes, three (3) months, I think, no. That is not going to happen. Monthly reports as well. Again, the goal in six (6) months is to come to the Council to report with some recommendations. Should the recommendation be to move forward, then I think the work begins, Councilmember Yukimura, like you just talked about. Then, it is a matter of how is this thing going to be drafted? How is it going to be written? There are a lot of references in the HRS and Charter that pertain to the Mayor. There are a lot of references in the County Code that pertain to the Mayor. All of those is going to have to be reviewed. Three (3) months, there is no way we can even get this. Remember, for us to meet, it is every two (2) weeks. The Committee can meet as often as they need to. But sending a letter off to an agency for a response, that in and of itself takes a while. I think three (3) months is pretty...and then the problem is if we require three (3) months, I can tell what you

the recommendation is going to be. We did not have enough time to explore all the details. So, we cannot make a recommendation at this time. That is not what I want to say. With that, the motion is made.

The motion to receive C 2015-180 for the record was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. With that, we will take a lunch break. I know we have a presentation at 1:30 p.m. It is 12:35 p.m. Let us try to be back before 1:45 p.m.

There being no objections, the Council recessed at 12:35 p.m.

The meeting was called back to order at 2:07 p.m., and proceeded as follows:

Council Chair Rapozo: Next item, please.

C 2015-181 Communication (06/05/2015) from Council Chair Rapozo, requesting Council consideration, for the public release of the following County Attorney opinion relating to Bill No. 2589 (Recovery of Rescue Expenses):

- County Attorney Opinion dated May 27, 2015
(Tracking No. 15-0441)

JADE K. FOUNTAIN-TANIGAWA, County Clerk: We have two (2) registered speakers.

Council Chair Rapozo: Okay. Thank you. For the public's information, the request did make it over to the Attorney and the Attorney did respond as far as no objection. However, there are Councilmembers that want to be briefed. We are going to defer this at the end of the discussion until the next meeting so we can have an Executive Session so the members can be briefed, and then we will take action on the matter. If you could call the first speaker.

Ms. Fountain-Tanigawa: The first speaker is Lonnie Sykos, followed by Alice Parker.

There being no objections, the rules were suspended to take public testimony.

Mr. Sykos: For the record, Lonnie Sykos. Thank you, Mel, for that information. I came today to lend public support for the opinion being released. I understand Council's need to be briefed. So, I look forward to the opinion at the next meeting and I will save the rest of my comments for then. Thank you very much.

Council Chair Rapozo: Thank you very much. I am assuming that Councilmembers are still interested in that briefing. Okay. Next speaker.

Ms. Fountain-Tanigawa: Next speaker is Alice Parker.

ALICE PARKER: Hi, Alice Parker, for the record. I echo Lonnie's sentiments. I do support the County recovering expenses for people who unthinkingly or just using no commonsense go out and hike. Kaua'i is not an amusement park. It is real life. I feel with Darwin, survival of the fittest, if they are

so dumb they are going to go out when a tornado is coming or a hurricane, maybe they should not come back. That is fierce, but come on. We taxpayers, should not have to pick up the expense for stupidity, ignorance, or gain on the tour companies who do these trips despite the bad weather that is coming. Thank you.

Council Chair Rapozo: Anyone else wishing to testify?

Ms. Fountain-Tanigawa: Chair, we have Matthew Bernabe.

Council Chair Rapozo: Okay.

Mr. Bernabe: Matt Bernabe. I understand. I just want to support it. I am here to support you folks. When taking this into consideration when you folks run down this avenue, go ahead and look how many County trails versus State trails are we rescuing people from? Sleeping Giant, there is at least ten (10) a year. That is a State trail. Nā Pali, hundreds at a time. Let me just laugh into the mic for the record. Okay that is Nā Pali right there. The State should be doing their diligence on not promoting it as a hiking trail for one, excluding Sleeping Giant. Nā Pali is a hunting district, and litigating the costs. But not only that, responding to the incident. They have a DLNR agency and when there is one hundred twenty-one (121) people behind Kalalau Trail, a DLNR agency should be going crossing that river, a helicopter going in, going with Meal, Ready-to-Eat (MRE) or whatever it is, start a fire, first aid, and a DLNR agent should be sleeping in there. That is a State thing. We should not be picking up the price for in that. I support safeguarding ourselves. Thank you.

Council Chair Rapozo: Amen. Anybody else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any discussion before I entertain the motion to defer? If not, can I get a motion to defer?

Councilmember Kualii moved to defer C 2015-181, seconded by Councilmember Kagawa, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

CLAIM:

C 2015-182 Communication (06/03/2015) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Advantage Rent A Car, for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2015-182 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. This is another claim involving a bus. I would like a briefing in Executive Session on this claim. Any discussion? Anybody in the audience wishing to testify?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2015-182 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE REPORT:

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2015-06) submitted by the Committee of the Whole, recommending that the following be Approved as Amended on second and final reading:

"Bill No. 2588 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNITS 2, 3, AND 4 BETWEEN JULY 1, 2015 AND JUNE 30, 2017,"

Councilmember Kualii moved for approval of the report, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Please, Mr. Bernabe.

Mr. Bernabe: Matt Bernabe. I am just ignorant on the issue, basically, and did not want you folks to go blowing through. I do not understand what Units 2, 3, and 4 are. I am into not quite sure what this is referring to. Is there any way I could get a paper on it or something? I just basically wanted to ask.

Council Chair Rapozo: Yes. Sure. We can make that available for you.

Mr. Bernabe: Okay. Sorry.

Council Chair Rapozo: This is a Committee Report. So, this is the activity that happened last week at the Committee Meeting. So, these are just the minutes of that meeting. But we can provide that for you.

Mr. Bernabe: Okay. Thank you very much. Sorry for slowing down the process.

Council Chair Rapozo: No problem. The Bill is coming up for Second Reading later today. If you want to check with our staff to get you the information before. Okay. Just check with our staff. Any further discussion?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any further discussion?

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

RESOLUTIONS:

Resolution No. 2015-46 – RESOLUTION ESTABLISHING A MAXIMUM SPEED LIMIT OF THIRTY MILES PER HOUR (30 MPH) AND FORTY MILES PER HOUR (40 MPH) ALONG ALA KALANIKAUMAKA, KOLOA DISTRICT, COUNTY OF KAUA'I, STATE OF HAWAII: Councilmember Kualii moved for adoption of Resolution No. 2015-46, seconded by Councilmember Kagawa.

Council Chair Rapozo: Anyone in the audience wishing to testify?

There being no objections, the rules were suspended to take public testimony.

Mr. Bernabe: Matthew Bernabe for the record. I will be brief on this. I am not quite sure where this is even on the map. I do not even know where the adjacent streets are and what not. But I will say this, on the east side, we lowered our speed limits. I just recently went to a State traffic meeting that was held at Kapa'a Library, and I did not see any police officers there or any representatives from the County there. I will say this, the State expert told us the problem is that we are not moving fast enough as a flow. Two (2) things. One, the speed limit is low. That came out of his mouth. The second thing is that people at the stoplight, which is not in your folks control, but they are not fast enough off the draw. So, they are not getting out. One of the things that is within your control is the speed limits. The mentality that we all live on an island, I pointed out that meeting that there are two (2) types of people live on the island; the kind who have to get to work and have three (3) jobs or they lose their life, have kids, and all of that; and there is the other people who are retired or trust fund or something, and they are in a very relaxed mode, tourists or people, who live here. There are two (2) different types of drivers on the road. From the State expert's mouth, he said, "Lowering the speed limits definitely congested the east side." That is all I have to say before you folks move forward with this.

Council Chair Rapozo: Thank you. Ms. Parker. I am sorry, Felicia?

Councilmember Kagawa: Can we have public testimony after the County Engineer's explain? I think that might shorten some of the public's testimony now and they can come back later. I think that would be helpful.

Ms. Parker: Do you want me to *amscray* or stay?

Council Chair Rapozo: Do you have a question?

Ms. Parker: No. I think it is terrific.

Council Chair Rapozo: Okay.

Ms. Parker: I know where the road is, and they speed like mad. I am going to make a right turn down there to get to the Kōloa District, and I am afraid to move. Thank you.

Councilmember Kagawa: Mr. Chair, that is why I think she is misunderstanding because it is actually to increase the speed limit on this road.

Council Chair Rapozo: Right.

Councilmember Kagawa: If we can, let us have a brief presentation with maps, if possible.

Council Chair Rapozo: Okay. Mr. Dill.

Councilmember Kagawa: Or even a verbal description is fine, as along as everybody knows this is the western Po'ipū bypass.

Council Chair Rapozo: Yes. The speed limit is going up.

Councilmember Kagawa: The speed limit is going up for a good reason.

MICHAEL MOULE, Chief of Engineering Division: For the record, my name is Michael Moule. I am the Chief of the Engineering Division here with the County and Public Works. Larry Dill is with me with as Public Works Director and County Engineer. I am going to give a brief report in summary of where we are with this today. This came as a request to us from Council to look at raising of speed limit on Ala Kalanikaumaka. It is currently posted at 25 MPH, but there are no current Council Resolutions as to what the speed limit should be. The posting was done after the road was built and Ala Kalanikaumaka, just to make sure we are clear, is the western bypass road that connects Kōloa Road to the roundabout in Po'ipū. That entire length is currently posted at 25 MPH. Actually, I am sorry. Most of it is posted at 25 MPH. Approaching the roundabout in the southbound or *makai* bound direction, it is actually posted at fifteen miles per hour (15 MPH). You can see now on the screen, the map of the area. I have a pointer here. This is the road here, Ala Kalanikaumaka, previously known and sometimes still known as the western bypass road.

If I could move it up just a little bit? There we go. You can see we have two (2) different patterns here. I will talk about that in a moment. It connects from Kōloa Road to the roundabout. It was built by Kukui'ula Development Corporation as part of their road network for their development to work, essentially. It was a requirement of that development. They produced the plans, did all of the designs, constructed this, and we have accepted this road. The speed limits were posted based on the design plans that were shown, and they showed 25 MPH. There was never a move to go to Council to create a 25 MPH speed limit, but that is what was posted based on the plans that showed 25 MPH to be the posted speed limits. When we got the request from Council, we took a look at several things. We did traffic counts to see how fast people were actually going out there and we looked at the physical geometric design of the road. You can see there are a number of curves on the road there. It is laid out roughly like that in reality. We looked at those curves and checked what their design speeds for those horizontal curves as well as the vertical curves, when the road goes up and down. There are vertical curves, and those have a design speed that is

associated with each rate of curvature for the vertical curve as well as the horizontal curve. We also looked at the presence of driveways and access points. There is only one (1) public street, as you heard this morning, I think, when you accepted the communication from the County Engineer, which is Ala Kukui'ula Road. It is currently not public. It will be. That will become a public road. It is currently still owned and maintained by Kukui'ula. But that is slated to be a County road in the future once they are complete with their project or at least enough of that road to turn it over to us. There are several driveways. They are not significant driveways. This is a water tank access. I think, that must be the water tank there, that little dot perhaps or maybe that is still a ditch. I am not sure. But in that vicinity there is a water tank. There is also another access point to a field there. There is an access point right there, that goes to the offices where Kukui'ula and many of their developers have their offices. There is a few access points down here at the bottom for the Kukui'ula shops as well as future access points, I think, to future residential development, I believe, is planned down there as with well. We looked at all of those factors and determined that the speed limit could be higher than 25 MPH as requested from Council. We determined in the area shaded in black here, to raise the speed limit to 40 MPH. This pattern here, two (2) dashes lines on each side or a line on each side that is dashed, to be 30 MPH. That was based on several things, the actual traffic counts and then mainly the horizontal curvature was the primary factor. The curves down here, this curve here and that curve here, have a design speed of about 30 MPH. We did not feel comfortable going higher than 30 MPH on the posted speed. We did find, however, I will just look at my analysis here. We did find that actual travel speeds, the measure we typically like to use is what is called the "85th percentile speed." It is a speed at which eighty-five percent (85%) of the traffic is traveling at that speed and slower. In other words, fifteen percent (15%) of the traffic is traveling faster than that. In traffic engineering, generally speak, the goal whether it be through road design or enforcement or the combination of those things, is to have your 85th percentile speed be roughly equipment to this posted speed limit because we recognize that eighty-five percent (85%) of the people are reasonable in how they travel on our roadways and that there is going to be those speeders that will go faster than that. We do not want to set the speed limit to be a lot lower than people are actually traveling because that means we are making most of the public scofflaw essentially, of we do that. So, either by raising the speed limit or by changing the design of the road or the way that the road feels and looks to bring the speeds down, we try to match those together. We found the 85th percentile speeds ranging from 36 miles per hour (36 MPH) in the south bound direction near the southern end down by the roundabout and thirty-nine miles per hour (39 MPH) in the northbound direction, up to forty-two and a half miles per hour (42.5 MPH) roughly up near Kōloa Road. It ranged in this range from about 35 MPH to about forty-three miles per hour (43 MPH) or so. Due to those numbers and trying to set the speed limit roughly within five miles per hour (5 MPH) of the actual speeds out there and the actual curvature, we felt that these two (2) speeds were appropriate for this road. I feel comfortable that they are not too high nor too low for this particular road here. It is rural, as you heard this morning. It does not have a lot of access and development along it. That is really the end of my brief report.

Council Chair Rapozo:

Thank you. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Council Chair. Thank you for your explanation and your maps. It is very crystal clear for me least, and your explanations are awesome. I just wanted to know, what was the reason why Councilmember Yukimura had asked you folks to consider it? Was it that we were getting complaints it was too slow?

Mr. Moule: I do not recall. I do not have that with me, the request itself.

Councilmember Yukimura: I will answer that. Actually, a couple of people approached me and said, "This is crazy. Can you please see if something can be done?" I just followed the procedure, which is to ask for an analysis. Thank you to Public Works and Engineering for doing such analysis.

Councilmember Kagawa: That is all I wanted to know. Thank you.

Mr. Moule: Just driving it myself, I observed that it seemed way too low as well.

Councilmember Kagawa: Thank you.

Mr. Moule: When we got the request, we said, "Yes, we think this makes sense. Let us study it and see what it should be."

Councilmember Kagawa: Thank you to all of you as well.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Chair. I am supportive. I was wondering, do we have any measures to monitor once we make a change in the speed limits? We enact it, but do we still have make sure it is working as we had planned it?

Mr. Moule: That is a good question. We are just embarking really, on creating a true traffic count program here within the County. In the past, we have taken counts upon requests for various reasons, if there is say change in speed limit like this one for example, or we do counts when we do our bridge structural load rating. How heavy of a vehicle can go on our older bridges, for example. We want to know how much traffic is there. We do counts for that. Sometimes we do counts with respect to a development review. They might give us counts. We might take counts as part of that. But largely, it is driven by complaints in the past. One thing we are trying to do now, in fact, I was just meeting with my staff before I walked over here about that, is trying to compile the old data we have. In addition, to the ongoing basis in the future, taking regular counts on most of our major roadways around the island because we need that information fairly frequently. If we get a request for a development to come in, we need to know how close are we to nearing capacity on planning level just looking at the counts. There might need to be some changes made. That access point, is it going to be a problem for congestion or safety when someone connects there with a driveway? We can get a general sense just by looking at an average daily traffic count along with the speed. So, when we do counts, we collect all of that information. We had a meeting last week or the week before with Planning and also Information Technology (IT) about how to track that data within our Geographic Information System (GIS) as well. We are embarking essentially, on a program like most cities and Counties have honestly, on an ongoing basis to take counts. So, we will be able to track things over time number one. Number two, I know what our counts and speeds are roughly on all through roads, essentially, in the County. We would not count local residential streets except upon request going forward, and we will keep those in database. What I expect to happen, to answer your question, Councilmember Chock, is that on these major roads, once we have counted them all, I would like to set up a system to count them every

five (5) years at a minimum. Different jurisdictions do it in different ways. In California, for example, every jurisdiction is required to do an engineering and traffic study to identify how it relates to the speed every five (5) years. If they want to be able to enforce their speed limits, they have to do that per State law. That is not a requirement in Hawai'i, but five (5) years is kind of the number that I am thinking of at this point. Once we see how many counts that will require and how much staff to do it, we can get a sense of what we can actually do. That is sort of the long answer to your question.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: I really want to thank you for your work and also ask, did something like this not happen when the four (4) lanes opened up between here, Līhu'e town, and Kaua'i Community College (KCC) because I remember them posting it at 25 MPH and everyone was, like, "how can we stay at this level?" It later on it was changed quite quickly, like about two (2) or three (3) weeks after it opened to forty miles per hour (40 MPH).

Mr. Moule: I am not sure. I actually think that segment is posted at thirty-five miles per hour (35 MPH).

Councilmember Yukimura: Yes. Maybe you were not here.

Mr. Moule: I was not here at that time.

Councilmember Yukimura: Maybe it is 35 MPH?

Mr. Moule: One of the things we have not done is sort of an ongoing basis to look at past speed limits to see if they should be updated at any given time. That is something we may do as part of this count program, be able to come to you with recommendations to change speed limits, higher or lower, depending on what is appropriate for the time. That is all to say at this point.

Councilmember Yukimura: Yes. I do believe though, that the 40 MPH limit between Līhu'e and Kapa'a has appeared to reduce the number of traffic accidents on that highway. You are right, that gathering data and making these judgments are important, one way or the other. Thank you.

Council Chair Rapozo: Thank you. Any other questions? I have one (1). Your communication says that I guess, your proposal has been reviewed by the Fire Chief, Police Chief, and Planning Department with no comments.

Mr. Moule: That is correct. They all said, "We have no problem with this change."

Council Chair Rapozo: So, that is different from "no comment." "No comment" means no comment versus supporting or not supporting it. I am real critical with the police because they have to monitor these things. They did respond?

Mr. Moule: They did respond. There were comments, but we have actually double-checked. If we did not receive a comment from them, we said, "Please let us know if you have any concerns" and they replied with, "We have no concerns" rather than "no comment."

Council Chair Rapozo: Okay.

Mr. Moule: To that point, I think this morning you asked about whether there were any concerns with the conditions of approval for the Kukui'ula development. We looked that up in the meantime and we did review the Ordinance for that and indeed, there were no requirements for the speed to be set at a certain level.

Council Chair Rapozo: The other question, it is going to be 30 MPH to the roundabout?

Mr. Moule: From the roundabout up to just past Ala Kukui'ula.

Council Chair Rapozo: What is the speed limit at the roundabout? Is that posted as a separate one because 35 MPH going through that roundabout is probably not very safe?

Mr. Moule: Right. The thing about roundabouts, this is getting off-topic here.

Council Chair Rapozo: It is not off-topic because this map shows it 35 MPH to that roundabout and I am concerned with that.

Mr. Moule: It is 30 MPH to the roundabout.

Council Chair Rapozo: 30 MPH? Even 30 MPH. That is why I am asking. Is there another speed limit for the roundabout?

Mr. Moule: There is not. On this island, it appears that most roundabouts, and many intersections, are assigned with speed limits. That is actually not the general practice nationally for traffic engineering. Roundabouts, if anything, should be signed for advisory speed. That was sort of an older document about roundabouts that was recommended. In the current Federal Highway Administration document about roundabouts, they actually recommend not even doing that. Roundabouts themselves are self-enforcing with respect to speed. You cannot physically get through faster than the rough design speed by more than a few miles per hour. Generally speaking, it is actually not recommended to post speed limits or even advisory speeds now at or through roundabouts.

Council Chair Rapozo: I guess for me, because I am thinking for the idiot that does not self-police his speed to a roundabout and he goes 30 MPH, thirty-two miles per hour (32 MPH), he does not make the roundabouts, and then he sues us because we have a posted speed limit of 30 MPH and he went 30 MPH. I do not know what the roundabouts are rated at. If I remember correctly, the design of the roundabout is designed for specific speeds, correct?

Mr. Moule: Yes. They are designed for about 15 MPH to twenty miles per hour (20 MPH) typically, for the through movement.

Council Chair Rapozo: That one. What about the one here?

Mr. Moule: The one?

Council Chair Rapozo: In Po'ipū?

Mr. Moule: The one in Po'ipū, I have not tested the curvature of that roundabout. I have driven it. It cannot be driven without getting on two (2) wheels at faster than 20 MPH, twenty-two miles per hour (22 MPH).

Council Chair Rapozo: Right. I am telling you. I am just saying my concern is, so it is our policy not to put a speed limit on a roundabout?

Mr. Moule: Not a posted speed limit. We have, I am trying to remember which ones. The roundabout being built right now over here on Umi Street and Hardy Street and the roundabout that was built recently over in Puhi have advisory speeds, not posted speeds.

Council Chair Rapozo: So, there is no speed limit on the roundabout?

Mr. Moule: Just whatever the normal speed limit is for the...

Council Chair Rapozo: Okay. Maybe it is the cop in me thinking. The cop zaps a car at 30 MPH in a roundabout, what is he or she going to do? You have to have a speed limit.

Mr. Moule: I mean, if the person is going 30 MPH coming in, they will probably crash if you clock them that fast.

Council Chair Rapozo: Right. But if there is no opportunity for that person to be cited for the violation, I guess, is what I want to say. I do not want the County left holding the bag when some knucklehead crashes on the...

Mr. Moule: I think whether or not we post an advisory speed, roundabouts are accompanied by several warning signs that warn about the circular intersection, and that is advising people that this is coming up and you should go slower. We could post advisory speeds at roundabouts. But I still would not recommend that we reduce the speed through every roundabout or intersection of any type, I would say. It is just not something that is typically done. It has been done here. I have seen it done in some of the roundabouts here on Kaua'i, but I do not recommend that we do that in the future to be consistent with what the National standards are on these things.

Council Chair Rapozo: Alright. Councilmember Hooser.

Councilmember Hooser: Just briefly following it up because as I think about it, it seems to make sense. You go from 30 MPH to a yield sign and it does not say "reduce speed ahead" or "go from 30 MPH to fifteen miles per hour (15 MPH)" or you just go from 30 MPH to what could be a stop. That is not typical to say "reduce speed ahead"?

Mr. Moule: Just like any intersection, you have a stop ahead sign. Say for example, you have a traffic signal. We will use that highway since that is Hawai'i Department of Transportation (HDOT) and they also follow the same Federal standards. You are approaching one of the signals in Puhi on the highway that Councilmember Yukimura just talked about that is posted 35 MPH of 40 MPH, one of those two (2) speeds, and there is no speed limit that says "go twenty

miles per hour (20 MPH) as you approach. Then the light suddenly turns red, you have to stop. That is normal. You would typically provide...you might, actually.

(Councilmember Kagawa was noted as not present.)

Mr. Moule: It is not even required, but you might. If the signal because of a curve or something, you might provide a sign that warns that there is a signal ahead. If it is very visible, you would not bother with that necessarily, that there is a signal. At a roundabout, you would usually have a sign that warns that of the circular intersection, the roundabout ahead. Right now, most of our roundabouts are signed with additional warning signs that warn of that condition, and that is what is typically done and is the official recommended way of letting motorists know that there is something changing up ahead that they should slow down for. From a liability perspective, of course as always, people can sue in this Country whenever they want. But I think we are in a good position from a liability point of view as long as we are following the National standards and manuals, which is what we are recommending here.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Any other questions? If not, thank you very much. Is there anyone in the audience wishing to testify now?

Mr. Bernabe: Matt Bernabe, for the record. In lieu of the facts of this particular case, I support it. It is not out-of-bounds. I know that road. I drive it. Just for a suggestion, maybe they can put in the roundabout just paint 15 MPH. I do not know. I was just thinking that. But I support this.

Council Chair Rapozo: Thank you. Anyone else? Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion? Councilmember Yukimura.

Councilmember Yukimura: Yes. I want to thank Public Works and Michael Moule for doing the analysis. I also want to acknowledge Meredith Fisher who was here earlier this morning.

(Councilmember Kagawa was noted as present.)

Councilmember Yukimura: She is an example of a citizen who has spoken up about something that did not seem to work. As Mr. Moule pointed out, if we kept it at that low speed, eighty-five percent (85%) of the people would be violating the speed limit. As long as we are not jeopardizing safety, I think this is a logical thing to do. Thank you.

Council Chair Rapozo: Any other comments? My concern is that area is used by a lot of pedestrians. There is the pedestrian walkway right there and I guess I am concerned that we did not get any input from the Police Department. 40 MPH is quick. That is fast. When you are right alongside a walking path, that is concerning for me. But I am assuming that you folks took a look at that. 40 MPH is what is on Kūhiō Highway by the golf course. That is the quick. I am not going to

hold up the process because I can count. But these types of Resolutions come up one day. People will hear about this now after it is done. We really did not have much community input because like most people, even you folks who follow Council, did not understand what this was about. So, that is a concern of mine. I would much rather have had that opportunity to the Kōloa-Po'ipū community put some input into this because I am concerned. Like I said, 40 MPH is a big difference from 15 MPH and 30 MPH or twenty miles per hour (20 MPH). But the experts have spoken. Councilmember Kaneshiro.

Councilmember Kaneshiro: For me, my mom walks that thing every day, I think. She walks on the sidewalk. As I drive on that road, there is a big green...I do not know what you call it. A green strip, and then you have a sidewalk over there. The road is really big, too. I do feel comfortable that this is a reasonable speed limit. I have driven it. I have driven it at twenty-five (25) miles per hour. I do not know how long it takes me to get from down that whole thing. It is pretty long. I am sure if people have problems with it, they will let us know. I am sure if my mom has problems with it, she will let me know right away. But she does walk on it almost every day. I am comfortable with the speed limit.

Council Chair Rapozo: Roll call.

The motion for adoption of Resolution No. 2015-46 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro,	
	Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

Resolution No. 2015-47 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Merrilee M. Ako*): Councilmember Kagawa moved for adoption of Resolution No. 2015-47, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Roll call.

The motion for adoption of Resolution No. 2015-47 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item.

Resolution No. 2015-48 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE FIRE COMMISSION (*Michael T. Martinez*): Councilmember Kuali'i moved for adoption of Resolution No. 2015-48, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Roll call, please.

The motion for adoption of Resolution No. 2015-48 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2590) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 22, KAUAI COUNTY CODE 1987, AS AMENDED, BY REPEALING ARTICLE 25, RELATING TO BARKING DOGS

Ms. Fountain-Tanigawa: Council Chair, we have one (1) registered speaker.

Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2590), on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 15, 2015, and referred to the Committee of the Whole, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Thank you.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Who is the first speaker?

Ms. Fountain-Tanigawa: The first registered speaker is Alice Parker.

Ms. Parker: Alice Parker, for the record. Please, please do not repeal the Barking Dog Ordinance. I guess it is onerous to enforce. But there are people who just do not care about their animals and dogs bark on and on and on. Please, reconsider. Thank you.

Council Chair Rapozo: Thank you. Is that it? Anybody else?

Ms. Fountain-Tanigawa: The next speaker is Matthew Bernabe.

Council Chair Rapozo: Thank you.

Mr. Bernabe: Matt Bernabe. I own dogs and I know the difference between a bad dog owner, a good dog owner, and a dog who barks doing their job. I have my motorbikes, I have my fishing poles and reels, generators, and equipment. My dogs are working dogs and I sympathize. Even some of my neighbors have dogs that I do not feel are not doing a job and they bark. But at the end of the day, I am born and raised here and I do not know. Part of my cultural upbringing is do you know what? That is just how it is when it comes to dogs. I am grumbling about chickens. I am not grumbling about cows. I have some neighbors that has some dogs. One of the, I call it a "Chupacabra" or whatever that Mexican creature is. It does not even sound like a dog. I do not know and it is not bad owners in this case. This one is just a little "shu-shu" dog. It just yaps. I understand that there are abusive owners in the sense that they just let it go on and on with no attention and what not. I do not know the mechanism. But I also am not affected by the current law is either. I am just saying that this is a tricky one and I do not really know how to vote on this. I think culturally, we have to let some dogs bark. Now, if it is abusive, there should be a mechanism. Call the Kaua'i Humane Society. There has to be mechanism if someone is just leaving a dog in the hot sun unattended. Other States have a unit that goes in and checks on home situations. Just putting a unilateral law of dogs, I am not quite sure of the language. I would have to be advised. I am not affected by this, but I still feel that the ones that do have dogs working, it has be kept in the picture. That is all.

Council Chair Rapozo: Thank you. Next speaker.

Ms. Fountain-Tanigawa: The next register speaker is Felicia Cowden.

Ms. Cowden: Felicia Cowden, for the record. I would like to see the Barking Dogs Ordinance at least amended to make it be much less severe. I think ten (10) minutes of barking, if there is something going on that is agitating them, and I liked the word "working dogs." A lot of people have dogs just so they protect their property and keep people away. Kaua'i is rural by nature. Hunting dogs are part of our culture. I moved into a neighborhood where I am near three (3) packs of hunting dogs. I just choose not to let it bother me. I can handle. We have these neighborhood developments that have really heavy Covenants, Conditions & Restrictions (CC&Rs), places like Princeville, and people who cannot cope with other

animals. I think they are ought to choose places like that to live. There can be out of control barking and that is something that, I think, something certainly less stringent than simply ten (10) minutes of barking. What can happen is you can have a really ultra-sensitive person who can basically diminish the quality of life in the whole neighborhood for anybody who happens to have an animal. I would be fine without a barking dog rule. But I think people are more sensitive than I am. But what we have is too severe, is my opinion. Thank you.

Council Chair Rapozo: Thank you. Anyone else? You have a question?

Councilmember Yukimura: Yes. May I? What is the evidence that you think it is too severe?

Ms. Cowden: It is ten (10) minutes, right? That is the barking rule.

Councilmember Yukimura: Incessantly.

Ms. Cowden: Incessantly barking for ten (10) minutes. So, what could cause that is a person who should not be there, something is agitating it. It is not hard to bark incessantly.

Councilmember Yukimura: That is a valid defense under the law. If it can be shown there is provocation, which could be a stranger on the lot or something, it is a defense against it.

Ms. Cowden: I happen to live in a community where sometimes there are people that really go after anybody with a dog. I will not name names, but that happens. I think ten (10) minutes is too short.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Ms. Parker.

Ms. Parker: Alice Parker. How about twenty (20) minutes because my friends and I went out to Koyasan Shingon Mission and we were waiting for the paratransit out on Menehune Road. The bus was supposed to be there at 9:10 a.m. and it did not come until 9:20 a.m. There was a neighborhood dog that was barking the whole time. The dog was right because we were strangers and we were nearby. But the owners never checked it. I just felt sorry for the dog. I think it is dogs that seem to have no reason to bark. I know that I adopted two (2) dogs from the Kaua'i Humane Society sequentially. The first one did not bark much. The second one, terrier dachshund mix. Yes, she was pretty yappy. But I had to use a shock collar on her and then I used a water squirter, which worked. Now she has learned. She can go "whoof" and there are people who are walking around, fine. Then if she keeps on going, I go "grr" so she will stand there growling, which is fine. It is not as loud for my neighbors. Maybe move it up to twenty (20) minutes because ten (10) minutes is not bad and there is a reason. I am talking about needless reasons or bored dogs or dogs who are out in the sun or have no water or have horrible conditions that they are complaining about. Thank you.

Council Chair Rapozo: Thank you. Mr. Bernabe, second time.

Mr. Bernabe: Matt Bernabe, for the record. I agree with both of these ladies that just testified. I really like what Felicia said. I happen to live in a neighborhood that does not have that problem. I am just lucky. Wailua Houselots is really good. But to the lady before me, some of those things that she mentioned can be called to the Kaua'i Humane Society as inhumane treatment of an animal. There is a mechanism without having...and to the point that if somebody does, and by the way, the owners may not be home. Have you ever thought about that? I mean, they may not be home and they are barking at you because you are out front. I have people that I know who it is because every day they walk at the same time in front of my house and the dogs have a unique bark. But what I am trying to say is that there are mechanisms for abused and neglected animals, and once you put this into language, it gives somebody the opportunity to harass. I do not have it. But it just obviously it is been here. It is a lot harder to go deal with it once you are engaged with that. It takes a lot of your time to go clarify. Yes, you proved that you can show, oh, yes, my dog was barking at something. But the proof of burden is on you, right? Now you have to go out of your time and prove that you did not do something wrong. No. Repeal this. I have made up my mind. I support all of this. At first, I was caught in the Catch-22 because I know there are those issues out there. But there is a mechanism for abused animals, even neglect is a form of abuse. I support repealing it or at least softening it. I like what Felicia said. That is all.

Council Chair Rapozo:

Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: First of all, I am going to start by praising Councilmember Yukimura for being bold and trying this out last year. Like Councilmember Hooser said in his final message on final approval that he was involved in this fifteen (15) or sixteen (16) years ago, and something needs to be done on this. There are some incessant barking. I can just picture those where they cage their animals, they do not run around, they are barking because they are hungry, and they are barking because they want to get out of cage. This barking dog law right now, what it is doing is creating a lot of animosity, fighting, filing, and citations among neighbors that really is not the purpose of what the Council had supported a year ago. I think the Council had supported trying to tackle the problems that are going on that should not be going on. What this barking dog law has done is it has opened it up for just neighborly bickering that should not be taking place. I have two (2) people that have become constituents, I guess, because they knew that I voted against the barking dog law. I told them, they wanted me to repeal it about six (6), months ago, and thanks to Aida, who has been working with staff and me. I told them I cannot go and try and repeal this law until I see some of these case goes to the end and how the judges rule because that is the final hammer; how the courts act the citations are dealt out, they go to court, and what will the Judges do? I can imagine the Judges are full on their plate and do not want to hear barking dog fights in their courtroom. It is happening, and people are spending money defending themselves, and they are being found innocent. It is not to say that the law was a bad one. We relied on the Kaua'i Humane Society. They came up, they gave us their honest truth. They thought that if you pass this barking dog law, we can help solve some of these issues. But without a dog law, we cannot go and try and work with both parties. I understand that. But at the end of the day, I think right now, we are seeing a lot of people using this barking dog law to get at their neighbor that they do not like. I am

really against our Council passing these kind of laws. I think we have enough bad blood out there day-to-day without having another vehicle for neighbors to fight with each other. There is a lot of reasons.

I can talk about my personal dog because every time my dog barks at night, I go out, me or my wife. We go out and we find out why he is barking because I am sure that neighbors want peace and quiet after 8:00 p.m. or what have you. Ninety percent (90%) of the time I would say it is either a feral cat, a chicken, or somebody walking on the road. He is not barking for no reason. If nobody is there, the dog is going to lie down. I mean, he just going to cruise. But most house dogs bark for a reason because the owners will discipline them. We put on dog collars, we squirt water or what have you, to try and reach our dogs that it is not cool to bark at night. Most dogs will react with proper training. I really want to correct this thing before it gets worse. I want to stop the bickering among neighbors to try and get after each other and to go into court. I do not want this Council to foster that. But as far as tackling the bigger issue about those who, like Matt and Felicia said that are incessant barking, this barking dog law does not address that. I think we need something. I do not know what it is. I wish I did know at this time. But I think with enough work, there is a way to go after those specific owners. But in this case, I think we have waited a year and we have watched the Kaua'i Humane Society. One could also say that the Kaua'i Humane Society right now, is undergoing some challenges of their own. There is a large feral cat issue out there. There are feral chicken issues. I think the Kaua'i Humane Society should stick to their core services and stop being the barking dog referee. Let us get them back to basics. Let us look for a means that we can really tackle the problem that we all want to tackle, is those owners who are not being responsible dog owners. Thank you, Council Chair.

Council Chair Rapozo:

Thank you. Councilmember Hooser.

Councilmember Hooser: Yes. I understand what the points the introducer is trying to make. But I think we are "throwing the baby out with the bath water," basically. If in fact, ten (10) minutes is too short, then let us make it longer. If in fact, the enforcement mechanism is not what it should be, then let us fix that. There is a problem in community and there was fifteen (15) years ago when I was here about incessant barking of dogs. Unfortunately, this measure does not allow for amending. It is simply a repeal. I would have preferred a proposal if someone was not happy with the law, to say, "Okay, let us make is twenty (20) minutes, let us do this, or let us do that." But right now, it is basically an up or down vote, either we repeal it or we do not repeal it.

I have a dog, sometimes I have two (2). My wife will call the second one, my grand-dog. It is a dog of my son who stays at the house. Those dogs bark. Our dog Roxy will bark when the neighbor's dog Bob walks along out hedge. Roxy will see Bob out there and will bark and bark inside our house. So, we deal with that. We also have neighbors that thankfully not anymore, but live a distance away. But their dogs would bark would bark every night, late into the night, hour after hour after hour. I remember sometimes my only option is to go on the porch and say, "Shut the front door" and try to get that dog to be quiet. When I introduced the Bill some years ago to do this, it was not successful. I will not forget getting calls from people who live over here in Līhu'e, multi-generational people, lots of old folks saying, "Councilmember, I cannot sleep. I work at night. All day long there is this dog right outside my window. It is a small lot. They are ten (10) feet away. They bark, bark, and bark all day long. I tried talking to the neighbors. There is nothing they can do. We call the police, we call this, there is no law against it, there is nothing that we can

do, and so can you help?" There are those kind of people all over our island in Līhu'e, on the west side, and the east side. I would say that the Barking Dog Ordinance is not the cause of the friction. The cause of the friction is people not being able to sleep at night who are saying, "What are they going to do with it?" They tried talking to the neighbor. The neighbor does not want to deal with it. Again, I would much rather see an attempt to improve upon this law. A lot of time, a lot of hours, and a lot of public testimony went in this; hours and hours and hours over years. Just to "x" the whole thing at one time, I think, is imprudent and we should look for ways to improve it, not ways to just throw it out. Thank you.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: When I first read the Bill, I thought I do not think I can support this. I thought about all of the hours and time volunteers spent on it. But I think that what I want to support is exactly what is coming up, and it is this discussion about how to improve it. I am inclined to support this on first reading to continue that discussion. I have asked for additional statistics from the Police Department. I think it is a good time for us to evaluate what it is we passed so that we can make some changes. I am for amending it and making it better. If I had to vote on it today, I would not vote for it. But again, I will support it on first reading because I would like to see this go to a Committee for additional discussion. I have not heard from the Kaua'i Humane Society, and I truly want to hear from some of the people that are being affected in both good and bad ways. I have only had positive E-mails from people thanking the Council for passing the Bill. So, I am looking forward to hearing from others who are struggling with it and see what we can do somewhere in between. My hope is that we can work on the solution rather than having it one way or the other. Thank you.

Councilmember Yukimura: When I introduced a Barking Dog Bill in the 1980s, I did it because this local couple from Līhu'e Town Estates came to me and said, "We have had to move our bed from our bedroom to our living room because our neighbor's dog is right outside our bedroom and keeps barking all night. We have tried to talk to our neighbors and they have not wanted to talk to us about the problem." That is how serious it is for some people. In the last round when we were considering the Bill that is now an Ordinance, the Principal of an elementary school who was hurt badly and was in recovery sent us an E-mail saying, "Please do something. I have a dog next door. He barks all day and all night. I am home trying to rest and recover, and I cannot. There is no recourse or relief for me." These are the issues that we have had to deal with. The one that was recently in court, it was a retired couple who had bought their home, and I think on the second day, the dog started barking and they never stopped. There had to be some solution and they would call the Kaua'i Humane Society, they would call the police, and neither could really do anything because there was no law to address it. So, that is why we worked for three (3) years with people who had barking dog problems to try to craft a law that would work. We worked with the Police Department to make sure that they would not be unduly burdened, and we worked to make sure that this law will not be used in situations of the Hatfields versus McCoys where neighbors just hated each other and just tried to do everything possible to make life miserable for each other.

You all got the barking dog statistics yesterday or the day before, which shows a year's worth of cases that have come up under our law. It shows that there were seventy-one (71) reports, forty-one (41) of those have been addressed by the law, and sixteen (16) of them closed with education. There is a whole process where if they get a complaint, the Kaua'i Humane Society will send instructions both to the dog owner

and to the complainant. One, the complainant is told how to keep logs, and other neighbors can also keep logs. The dog owner is given all kinds of suggestions as to ways that they can control the barking of their dog including barking collars, including training, and making sure the dog is okay physically with enough food and water, things like that. Then there is a process. So, sixteen (16) of the seventy-one (71) cases, and some of them have just come up in the last six (6) months. These will still going through the process. But of the earlier ones, sixteen (16) have been closed with education, seventeen (17) have had citations issued, and I think two (2) have gone to court. I sat in court, listened, and saw how difficult it was for evidence and so forth. The burden is on the complainant to first show evidence and logs that it is a problem. Then, the burden is on the defendant to show defenses or reasons why the dog was barking for good reason. In that case, the Judge found for the defendant. However, for the last three (3) months of that case, the dogs have been quiet. It showed that the actual law was working. There are difficult situations. In this case, the dog owner choose to give up one (1) of the dogs. I know that was a very difficult and hard decision for her. But I do not think she was questioning in the end that the dogs were causing a problem for her neighbors. Anyway, I think it is working for the most part. I am going to vote on first reading in favor of it so we can hear. I think it is good that we hear how the law is not working, and then devise ways to address that if in case it is not working.

Council Chair Rapozo: Thank you. Anyone else? Councilmember Hooser.

Councilmember Hooser: Just a process question. Again, it is my understanding that we are not able to amend this Bill at all. It is a repeal?

Council Chair Rapozo: Correct.

Councilmember Hooser: If we wanted to improve the law as opposed to repeal the law, we cannot do that with this vehicle?

Council Chair Rapozo: Okay. Correct.

Councilmember Hooser: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I just wanted to say I will be voting this to get through first reading. I do think a situation like this does need to be reevaluated. I would like to hear more from the Kaua'i Humane Society about how the cases are going, what their feeling is, and how effective this law has been. But this law kind of makes me...I do not want to bring it up, but it makes me think of a private nuisance lawsuit, similar of that to the smoke issue. It is between two (2) neighbors, and I think there is a method for people to resolve their issues and it is through a private nuisance lawsuit. I am open to hearing more information, and I look forward to the discussion that is going to happen, and the testimonies that we will probably get. It will probably give us a better idea how the law has been working so far.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Let me point out, too, that there is no County in Hawai'i that has a successful barking dog law that is being enforced. This is not an easy problem to fix. Honolulu has, I believe, they have a law in the books. But

the police and humane society do not even go there. Why would you not go there? Because when you go to court, you are not going to be able to prove it, your prosecutor is going to waste all of that time, and your police will waste time for nothing. Who is going to lose out? The residents, the locals, who has to defend themselves. I just think again, a specific reason why I say "repeal and not "amend" because right now, it is not working and it will never work. Thank you.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I, too, am supporting on first reading. I am not sure I saw the original E-mail from the Kaua'i Humane Society, and then I saw the chart of numbers. It looked all wrong. I asked several questions and then for further information even about the involvement of KPD and all of that, and some of the information that we got back, and I think it is still coming back now. We need the time to look at it further. But I was told that KPD does not get involved. That is one thing to consider. The numbers were corrected a couple of times. I am not even sure if Councilmember Yukimura has the latest numbers. But there is a lot of information to look at. I think overall, if it is a bad law, then it should be repealed. I appreciated the comments from one of the testifiers about the culture and about the law not going too far because there is a way to correct bad behavior and to have people be better owners and more responsible owners even still working with the Kaua'i Humane Society, but short of two hundred dollars (\$200) or a five hundred dollars (\$500) fines, neighbors taking each other to court, and all of that. I am willing to work on this.

Council Chair Rapozo:
What do you have?

Councilmember, you have used up your time.

Councilmember Yukimura: First I want to say that because we are not going to be able to amend this Bill, if we are going to make changes, we will have to introduce a new law.

Council Chair Rapozo:

Right.

Councilmember Yukimura: But I am willing to use this as a vehicle to find out what is happening, which is why I will vote for it on first reading.

Council Chair Rapozo:

Okay. Thank you.

Councilmember Yukimura:

I also want to say...

Council Chair Rapozo: No. Councilmember, you have used your time and this is first reading and please. You saw the light turn yellow and it is done. I want to really respect the rule because once you start deviating...

Councilmember Yukimura:

The rule makes no sense.

Council Chair Rapozo:
else?

But that is the rule. Change the rule. Anyone

Councilmember Yukimura:

I want to appeal the decision of the Chair.

Council Chair Rapozo:

Go ahead, appeal the rule.

Councilmember Hooser: Chair?

Council Chair Rapozo: Yes.

Councilmember Hooser: I am not sure how much time I have available. But I would be happy to yield my time to Councilmember Yukimura.

Council Chair Rapozo: How much time does Councilmember Hooser have?

Ms. Fountain-Tanigawa: Councilmember Hooser has two (2) minutes left.

Council Chair Rapozo: Okay.

Councilmember Kualii: I have a process question? I never understood the rule to be that we can give each other time.

Council Chair Rapozo: Well, it is silent. But I am going to introduce a Resolution with clarifications because this is...and again, I am going to call a spade a spade. Councilmember Yukimura tests the rule and she is the only one that does it. I am going to clarify the rule and this body will decide what they want to do because it is a First Reading Bill. It is going to go to public hearing. It is going to go to Committee. I am going to honor it because we have no rule about transferring time. Councilmember Hooser, two (2) minutes. Please give Councilmember Yukimura two (2) minutes. I will be preparing some changes because some of this is just unnecessary, in my opinion. Councilmember Yukimura, continue.

Councilmember Yukimura: Yes. I want to say we have this problem because the rule is not functional. If we have relevant, important things to say as part of the discussion, we need to be able to do it. All I want to say is that in response to Councilmember Kaneshiro's concern that this is a private nuisance case, when you have seventy-one (71) complaints, it is very different from the Smoke Bill because you can see it is a major problem and something that we need a law to address. That is really what I wanted to say.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: I think we need to be able to go back and forth on these issues and on these opinions that different Councilmembers have.

Council Chair Rapozo: Thank you. Any further discussion? I will say the rule may not make sense to you, Councilmember Yukimura. I have not heard no complaints from anyone else. That rule was passed and that is the rule. Again, if you want to change the rule, you will have an opportunity when I introduce the Resolution. You can make amendments and we can go down that road. But it is frustrating for me to try to run this meeting as we should be when I get tested all the time and challenged all the time. It is from you, Councilmember Yukimura, no one else. With that, roll call.

The motion for passage of Proposed Draft Bill (No. 2590), as amended on first reading, that it be ordered to print, that a public hearing thereon be scheduled for July 15, 2015, and referred to the Committee of the Whole was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7*,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Hooser was noted as silent, but shall be recorded as an affirmative for the motion.)*

Ms. Fountain-Tanigawa: 7:0.

Council Chair Rapozo: Next item.

BILL FOR SECOND READING:

Bill No. 2588, Draft 1 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNITS 2, 3, AND 4 BETWEEN JULY 1, 2015 AND JUNE 30, 2017: Councilmember Kagawa moved for adoption of Bill No. 2588, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Chair, just for the time. Let me clarify. I know we went through this previously. I voted silent on this. I will do so again. I keep being told that we do not have a say in this. This is what we do. I kind of have an issue with that. I do not know why I have to vote on something when I do not have a say on it. It just does not make sense to me. While I support that there is a process and decision has been made, I think that this is an area that we have to pay attention to more. I will be consistent with my vote and silent in this process again. Thank you.

Council Chair Rapozo: Any further discussion? Councilmember Kagawa.

Councilmember Kagawa: Along the lines of Councilmember Chock, I am kind of baffled that the way all of our State and County workers are paid. For example, I think the last time we had the police and fire raises and we analyzed it, I think they were near the top ten (10) and school teachers were 49th out of fifty (50). Then, I know some of our Hawai'i Government Employees Association (HGEA) engineers are way down. But I am just wondering where we all should be because I

think everyone can agree that our engineers are important to do our roads, our walkways, and everything. We all agree. I think teachers are important. We all agree public safety is important. But at the end of the day, I mean, why do we have so much of this up and down? We have got one (1) at top ten (10) and the other 49th? I would think that if you get better teachers, then you get less criminals later that grow up. I mean, does that not make sense? Why spend the high salary on the police when maybe you can create more good non-criminal students coming up? I am just really am troubled by the whole negotiation process of the State and County, and try to find some kind of balance at some point. But when we have no say over the ones that we pay the tab, like Councilmember Chock, I have some issues because at some point, we are going to break the piggy bank. When you hear about in the mainland firehouses being closed and what have you, it is true. Some Counties just go broke and then they have to go on a volunteer system. Who suffers? The residents are going to suffer when they have that fire that do not have that twenty-four (24) hour personnel. I am really troubled by the whole scale of collective bargaining. I think it behooves us to at least try and attack this problem. I do not know. Maybe baby steps at the start. But somewhere. I think we need to try and take a step and try and change the whole picture. Thank you, Chair.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: I share some of the frustration about the lack of Council's involvement and participation in the process. But if any of us are not happy with the settlement, we can vote "no." I will be voting "yes."

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: I am very grateful to hear the concerns around the table because there is cause to be concerned. I will be voting for these raises. How can I not vote for them, when not too long ago HGEA and United Public Workers (UPW) members and teachers were required to take furloughs and five percent (5%) cuts while police officers and firefighters got six percent (6%) raises for those same two (2) years in a row compounded or equivalent to rank-to-rank? Following those years, police officers and firefighters got equivalent of four percent (4%) raises for four (4) years compounded. This is resulting in entry level police officers now making about sixty-two thousand dollars (\$62,000) before overtime, and Police Captains making about one hundred twenty-five thousand dollars (\$125,000) on the average before overtime, more than some attorneys, engineers, planners, and IT personnel in the County. This is not to say that we should not compensate our police officer and firefighters adequately. We must. But we must also need to compensate our other employees and provide good public services. There was a time not too long ago when we were having difficulty in recruiting police officers. But that is not the case anymore, nor is it a problem to recruit firefighters. But we are having problems recruiting top quality engineers, IT personnel, experienced attorneys, and planners. We must have more internal pay equity if we are to deliver high quality services to people of Kaua'i and Niihau. But that is not the only problem. Looking at the big picture. Our way of setting salaries in the County and State is not sustainable. If we do not make some changes, we risk facing fiscal instability at the least, and bankruptcy at the worse. I say this not to cause panic or knee-jerk actions, but to urge us all to take actions while we still have time. If we start now to look deeply at the system and make the course corrections when it is still possible, we will be much better off and we will achieve the Mayor's and the Council's top priority, which is financial sustainability. I also believe it would be in

the unions' best interest as well, since the unions did not fare well in Detroit's bankruptcy proceedings. We all have a stake in avoiding such outcome.

I want to show the statistics on this. This is showing the raises of all of the different bargaining units in 2016. These are just the raises, not the total salaries in 2017 and the cumulative total over the period of their contracts. I think some of them have four (4) year contracts and some of them have two (2) year contracts. In 2017, for raises alone, we are going to be paying fifteen million dollars (\$15,000,000). That is next fiscal year. This is the total pay raise increases over four (4) years. Thirty million dollars (\$30,000,000), right? By 2017. Right. This is an unsustainable budget. So, who also gets hurt by a non-sustainable budget is the public because we have to provide good services presently and we have to be preparing for the future. I mean, that is what generations before us have done. They have always thought about the future. But the way we keep just cutting and cutting on services, supplies, and all kinds of things are asking our people to do more for less, and sometimes trying to squeeze blood out of a stone. That is not going to provide good services nor is it taking care of the future whether it is skateboard parks and other facilities to keep our kids out of trouble, taking care of the elderly, providing better bus service or providing affordable housing. What also gets hurt is proper support for our employees who need supplies, tools, equipment, and training to serve the public well. The Administration has indicated it wants to address this problem. But I have not yet seen how we are going to do it. I hope that we will find a way together to collectively address this because it is not sustainable.

Council Chair Rapozo:
Kualī'i.

Thank you, anyone else? Councilmember

Councilmember Kualī'i: Of course, I will agree with Councilmember Yukimura about it not being sustainable because it is very obvious when you see the figures just going up and up. But I do disagree with the statement about we do not have a say. Of course we have a say. This is the only place where we do have a say, during the budget. This Council approves or does not approve how much this County can spend, period. I mean, it is true we do not participate in actual negotiations and that is why when the negotiations are over, we have no choice but to approve what is before us for that year. I mean, it is only the right thing to do. But we must then for the next cycle and the cycle after that, constantly work on things like Vacancy Review Committee and the Position Review Committee, all positions. We did not do enough in this last budget vote. That is what I said. The glass is half-empty because with eighty percent (80%) of the budget being spent on salaries, but we are not even able to start reducing by eliminating more of the vacant positions. It is only natural that you feel a sensitivity toward ours workers, their families, and who they are supporting. It is hard to cut a position with a body in it. But let us be real about the positions that are vacant and we should at least cut those. Let us be real about the levels of salaries throughout the County that we allow just to blow up as if this is the City of San Francisco or New York City. This is the County of Kaua'i. We want to attract the highest best level top managers. But let us use the fact that we are here in this beautiful place as part of the benefit of having such a high level job in our County. This is not about the workers, in my opinion. It is not about the unions. It is about us as the County Council and the Mayor as the Administration mismanaging our budget. So, that is what we have to work on. Thank you.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: I have got to agree. I share the same concerns as all the other Councilmembers here. I think the one frustrating part about the budget, I mean, we get pounded on to cut the budget. But as you can see in the spreadsheet, next year, there is an eight million dollars (\$8,000,000) increase to salaries based on collective bargaining. There is really not much we can do about it. I mean, we cannot cut those jobs or anything. We are going to have to cut expenses, which we have been trying to do to balance the budget. I think it is hard. I am not saying that police do not deserve the pay that they get. I am not saying that fire does not deserve the pay that they get. I think we do have all of the positions full, probably because the pay is a lot better now. It motivates people to want to be a police officer or a fireman when we have other positions that the pay may not be that great so we have a hard time filling it. I think when it comes to collective bargaining, although we do not get to sit at the table, I just ask whoever sits at the table, to please look at the individual Counties and what our financial situation is. I am not opposed to increases. But I am opposed to not looking at what our financial situation is and then just sticking us with the tab. If we could plan out the next ten (10) years of increases, small increases. I mean, usually everybody uses inflation at three percent (3%) and increase salaries somewhere along there. But to give six percent (6%) increases or four percent (4%) increases, it is hard, and it is hard to know where our budget is going when we do not know maybe the collective bargaining is only for a few years and the next year it gets bumped again. I know we will be paying a lot more attention to the collective bargaining process. I will be paying a lot of attention to the collective bargaining process this coming year. I am just hoping that we can come up with something that is reasonable and fits each other County's budget. For all of our workers to follow the same budget as the State, to follow the same budget as Big Island or Maui. We all have different financial situations. I think it needs to be specified to the individual islands. I will be voting for it. But I know I will be watching the process a lot closer next year.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: Just real briefly, and this is not intended at anyone in particular. But there has been several comments made by how the Council is powerless and that is not true. We can cut jobs if we wanted to. Many of us think that it is not the right thing to do. Others there is no political will to do it. We do have the power to vote "no" if this Council wants to and take other action. Just for the record, we are not powerless. But we choose to vote "yes" today and support these measures. I just wanted to say that for the record.

Council Chair Rapozo:

Thank you. Councilmember Yukimura.

Councilmember Yukimura: I mean, we do not have to go to cutting jobs right away. But we can at some point, say "no" to pay raises, and we may have to do that in the future if we want a sustainable budget. How the pay raises are set up is one of the keys that we have to start looking at. Police could get their pay raises because during arbitration, they were allowed to look at the reserves, I mean, our unexpended...or what is it called?

Councilmember Kualii:

Unassigned Fund Balance.

Councilmember Yukimura: Unassigned Fund Balance, and that is one of the mechanisms which may be we have to change.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Anyone else? I will just say that we are between a rock and a hard place. We can vote "no" and we can stop the funding, and then we will get sued because the contract has been approved. You cannot not fund it. I mean, you can vote "no." You could. But we will get sued because the Counties agreed to this. The Mayors agreed to it. The Mayors should be the ones saying "no" because their votes matter, not the Council's. The way it works is both sides agree, they end up coming up, and typically we do not agree. So, we end up in binding arbitration and then the arbitrator rules on a decision that is binding. We do a horrible job as a County generally, with the outer island Counties, in negotiating these contracts. Horrible. What I found out in the last couple of years is that we basically put all of our eggs in one (1) basket. We let Honolulu negotiate for us and that is the problem. Honolulu has their own agenda. Political agenda, call it what you want. But they have their own. They are just geographically and politically much closer with the Governor. The Governor needs one (1) vote from one (1) County Mayor to pass the agreement. One (1). Unless all of the Mayors get together and say "no," it is not going to change. It will not change and then we are bound. What are we going to do? We are going to vote "no" on this and end up with a lawsuit for a breach of contract? That would be irresponsible. I have said this to a couple of union representatives, "You folks are going to be so successful in negotiations, and you are going to cause us to cut positions." JoAnn is exactly right. It is not sustainable. We will not be able to fund these pay raises going forward. The contract also provides for Counties to reduce the size of the force. There is a process for that. We are going to get to a point before bankruptcy that we are going to be sending out pink slips to employees because the unions were so successful in the prior years, that now the County have no choice but to say, "Hey, sorry, either furloughs or we are going to be reducing your workforce," which is totally legal under the contract. Do we want to do that? Of course not. I guess what I am saying is the unions, you folks have to start looking ahead too because yes, you can come up with these huge increases, but at some point, there will be no money and we are almost there. But until then, we are at the whim of the arbitrators, of the Governor, and one (1) Mayor. In this case, a Mayor has never...maybe one (1) time. I think, Mayor Baptiste had talked about not supporting the collective bargaining increases. That was many years ago. But since then, the Mayors just go along with it and then we have to deal with it.

When police officers was making one thousand five hundred dollars (\$1,500) a month, that was what I was making when I was a cop. Nobody was complained about that. They went to work and we had a hard time filling positions. We are not talking about what they should or should not get paid. But to all the people out there that think they are paid too much or they want to get paid that much, hey, go apply. Go be a cop. That is my comment to that. Go be a cop. You want to make sixty thousand dollars (\$60,000) a year starting pay, go sign up. They are looking for people all year long. It is not one of the best jobs in the planet. It is a tough job. It is a dangerous job. We talked about that earlier today. I think they are getting paid. It is a lot of money, but when you call for them and you need help, they are worth every penny of it. I just want people to understand that. Those fire/police contracts are very lucrative. They were very attractive. But at the end of the day, the Governor and the Mayors agreed to it so now we have to fund it, and that is the unfortunate part. KipuKai talked about this. Just take for example, a couple of Departments across the street. You look at Human Resources (HR) and look at Mayor's Office. The amount of personnel in those Departments. A lot. We have got to look inside ourselves first and as KipuKai said, start looking internally and say, "Hey, do we really need all of these people?" I am not talking about the ones that come under

collective bargaining contracts. I am talking about appointed and exempt personnel that do not enjoy the union protection. Do we need all of those people at that extravagant salary? I do not know. That is the question we have to ask ourselves. With that, roll call.

The motion for adoption of Bill No. 2588, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7*,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent, but shall be recorded as an affirmative for the motion.)*

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. Can we have the next item, please? It is just the reading to get into Executive Session.

EXECUTIVE SESSION:

ES-805 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2), and Kaua'i County Charter Section 3.07(E), the Kaua'i County Council will meet in Executive Session with the County Clerk. This Executive Session pertains to the evaluation of the County Clerk where consideration of matters affecting privacy will be involved as they relate to this agenda item

Council Chair Rapozo: Go ahead.

Ms. Fountain-Tanigawa: Council Chair Rapozo, if I just may say a few words regarding this Executive Session (ES).

Council Chair Rapozo: Sure.

Ms. Fountain-Tanigawa: I would like to preface my statement by saying that I have not had a chance to present my vision, goals, et cetera, to our staff. They have heard bits and pieces of it at different times. But as many of you know, we have been very busy with the budget as well as the National Western Interstate Region (WIR) Conference, and I have just not had the time to do so. So, they are hearing it for the first time. I truly apologize to them for that. It is not how I normally do things, as I usually personally discuss these items with our staff prior to presenting them to you.

I was sworn in as the County Clerk on May 6, 2015. As part of the discussion held that day, it was requested that within six (6) weeks, which is today, the Council would meet with me to discuss and establish mutual expectation and goals. Given those statements and timeline, ES-805 has been posted. Believe me, I mean no disrespect, but it is my belief that if we will be discussing my goals for the office, I would feel much more comfortable having this discussion in open session. As such, I

will be waiving my privilege to go into Executive Session today. I understand that the posting also states "the evaluation of the County Clerk," and I feel that this discussion should also be held in open session. It is very important to me to be able to openly discuss with you, as well as our staff and members of the public, what I see as a vision for the office and for the Office of the County Clerk, our goals, and be able to have your feedback. I am open to any questions that you may have.

Council Chair Rapozo: Thank you. First of all, let me address the Executive Session posting. If we are going to be discussing goals and objectives, then it does belong in open session and not in Executive Session. As far as the evaluation of the County Clerk, you have been here six (6) weeks. So, obviously, you are far from getting your evaluation. I think as we are discussing expectations that as well, should be held in open session and not in Executive Session. The posting reflects an Executive Session. We are allowed to have this posted Executive Session discussion in open session. So, that is what we will do. Councilmember Kagawa, did you have a question?

Councilmember Kagawa: I realize that. I commend the Clerk for wanting to have it in open session. I feel a little hesitant knowing that each Department or Office, they might have some internal meetings that they want to just keep within themselves. I just want to make sure that the advice of the Council is unanimous and make sure that we are all on the same page because I feel like some things is better kept within the units. Thank you, Chair.

Council Chair Rapozo: I mean, goals and objectives do not fall under protections of Chapter 92. If the Clerk believes or any Councilmember or the County Attorney for that matter, believes we are getting to a point where it involves a personnel matter, then obviously we can break at that point and go into Executive Session. That is the beauty of the posting. We can go in if we have to. I want to limit today's discussion to simply that, the goals and objectives, and we can move forward on that. That is completely open to the public. If we have any specific questions that involve personnel that we hold that until the end, we can get B.C. go home, and then we can reconvene in Executive Session. Councilmember Chock.

Councilmember Chock: I just want to commend our County Clerk for challenging the process because I think it makes a big difference when the public sees officials taking the initiative to keep things as transparent and open. In terms of inspiring what I call "shared vision," it is that much more important that it happens in openly because it is something that we are all trying to co-create in the process. *Mahalo.*

Council Chair Rapozo: Any other questions? Councilmember Yukimura.

Councilmember Yukimura: I want to thank the Clerk. No apologies necessary. I really feel like just by honoring with my request that we have a discussion, remembering it, and putting it on the agenda is a great thing. Thank you very much. I have no objections to discussing the goals of the County Clerk in open session. But I also saw this as a part of our personnel responsibility to start out your term with a clear understanding of what our concerns were about the operations and what your goals would be as the Clerk, and then that would become part of the evaluation. I think that might be better done as a personnel issue in a closed session. Let us try it and see how it works. But I am thinking that we should have some closed

session time to talk about what are our expectations are and the things by which you will be evaluated.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: Pardon me Chair, I am not really clear on why this item is on the agenda and what we are going to be talking about. As you mentioned, the Clerk has only been in her job a few weeks. I cannot imagine any evaluation of that few weeks is going to be meaningful. If it is for the purpose of the Clerk presenting the goals and objectives and plans for the future, then I would think the Clerk would have time to develop that, work with the staff, present that to us in writing, and then perhaps we could have a discussion. It feels like something is not quite right here.

Council Chair Rapozo: Okay. Well, let me answer your question. The reason it is on the agenda is when we appointed Jade as the Clerk, Councilmember Yukimura requested that in six (6) weeks we have a posted agenda item to discuss the goals and objectives, and that is why it is here. I was just trying to honor the request of the Councilmember. That is why it is here today.

Councilmember Hooser: Just a brief follow-up. I think what I heard from the Clerk was that she had not had time to really meet with the staff to complete that. I would suggest that we might give the Clerk additional time unless there is some urgency to do this, to finish her goals and objectives and meet with the staff as she seems wanting to do, and then we reschedule it would be my suggestion.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I concur. I want to give her another six (6) weeks or what have you because I know when Ricky left, she was smashed doing a lot on her own. We are already understaffed to begin with. Thank you, Chair.

Council Chair Rapozo: I am just trying to honor the request of the Councilmember. That is all. I think you forget you asked for that, right?

Councilmember Yukimura: No. I remember, but I did not expect it to be so impeccably addressed.

Council Chair Rapozo:

JoAnn, that is what you asked for.

Councilmember Yukimura: Plus or minus six weeks (6). I mean, six (6) weeks plus or minus. I am really thankful it was not forgotten, and I have no problems with giving more time.

Council Chair Rapozo: When I was selected as Chair, and I appreciate that. I got bombarded with blog posts and E-mails saying, "The dictator has arrived." King Mel. He is going to keep everything from the agenda, blah blah. I put everything that was requested on the agenda. JoAnn, if you want something in six (6) weeks, it will be in six (6) weeks. If you want something plus or minus and if you state that, then we will be plus or minus it. But you had stated six (6) weeks and that is why we are here. I have no objection and I do not think the Clerk has any objection. I do not think B.C. has any objection because if we are good with that, he can go home. Is that okay with you Madame Clerk?

Ms. Fountain-Tanigawa: That is fine.

Council Chair Rapozo: I know you prepared for this day.

Ms. Fountain-Tanigawa: I welcome the time and at least the opportunity to speak with the staff.

Council Chair Rapozo: Okay.

Ms. Fountain-Tanigawa: Thank you.

Council Chair Rapozo: That is probably the best way to do it. Public, any testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Let us receive this and then I think Councilmember Hooser's suggestion is a good one. We will allow you to prepare something in writing and circulate it, and then we have that discussion at that time.

Councilmember Kagawa moved to receive ES-805 for the record in open session, seconded by Councilmember Kualii.

Council Chair Rapozo: Further discussion?

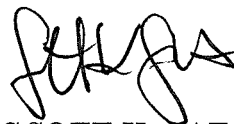
The motion to receive ES-805 for the record in open session was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. With that, no further business, the meeting is adjourned.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:45 p.m.

Respectfully submitted,



SCOTT K. SATO
Deputy County Clerk